4169.

SUPREME COURT OF THE UNITED STATES.

No. 137.

CYRIL C. TYLER AND HIS WIFE, SARAH P. TYLER, COMPLAINANTS AND APPELLANTS,

vs.

GEORGE N. BLACK.

APPEAL FROM THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF MAINE.

INDEX.

	Original.	Print.
The plaintiffs' bill of complaint	1	1
Subpœna in chancery	26	12
The defendant's answer to the bill	28	13
Deed from plaintiffs to defendant	49	23
Obligation from Tyler to Black	51	24
Plaintiffs' replication to defendant's answer	52	24
Plaintiffs' interrogatories to Joseph and Louisa H. P. Stanwood	53	25
" " Henry M. Fuller and Brimsley Perkins	56	26
Defendant's objections to plaintiffs' interrogatories	58	27
Defendant's cross interrogatories to J. & L. H. P. Stanwood	58	27
" " " Joseph Stanwood	58	28
" " " H. M. Fuller and B. Perkins	59	28
Answers of Joseph Stanwood to plaintiffs' direct interrogatories	60	29
" " defendant's cross interrogatories	65	32
" Louisa A. P. Stanwood to plaintiffs' direct interrogatories	67	33
" " " defendant's cross interrogat'ies	69	33
" Brimsley Perkins to plaintiffs' direct interrogatories	69	34
" " defendant's cross interrogatories	70	34
" Henry M. Fuller to plaintiffs' direct interrogatories	71	35
" " defendant's cross interrogatories	73	36
Plaintiffs' direct interrogatories to Edward F. Putnam	74	36
" " " Albert G. Soule	74	36
" " " Elizabeth P. Soule	74	36
" " " Phebe Hendrick	74	36
Defendant's objections to same	77	38

[GIDEON, Print.]

	Original.	Print.
Defendant's cross interrogatories to same - - - - -	77	38
Answers of Edward F. Putnam to plaintiffs' direct interrogatories -	78	39
" " " defendant's cross interrogatories -	84	42
" Albert G. Soule to plaintiffs' direct interrogatories -	85	43
" " " defendant's cross interrogatories -	91	45
" Phebe Hendrick to plaintiffs' direct interrogatories -	93	46
" " " defendant's cross interrogatories -	95	48
" Elizabeth P. Soule to plaintiffs' direct interrogatories -	97	49
" " " defendant's cross interrogatories -	102	51
Plaintiffs' direct interrogatories to Benjamin Dyer - - -	103	52
Defendant's cross interrogatories to Benjamin Dyer - - -	105	53
Paper A, annexed to interrogatories to Benjamin Dyer - -	107	54
Answers of Benjamin Dyer to plaintiffs' direct interrogatories -	109	55
" " " defendant's cross interrogatories -	118	59
Notice from plaintiffs to defendant to explore the lot in question -	122	61
Plaintiffs' direct interrogatories to George F. Foster - - -	124	62
" " " John B. Foster - - -	124	62
" " " William Hapworth - -	124	62
Defendant's objections to same - - - - -	126	63
Defendant's cross interrogatories to same - - - -	126	63
Answers of George F. Foster to plaintiffs' direct interrogatories -	129	65
" " " defendant's cross interrogatories -	133	67
" William Hapworth to plaintiffs' direct interrogatories -	139	70
" " " defendant's cross interrogatories -	142	71
Plaintiffs' direct interrogatories to Roswell Silsby - - -	148	74
Defendant's cross interrogatories to Roswell Silsby - - -	150	75
Answers of Roswell Silsby to plaintiffs' direct interrogatories -	152	76
" " " defendant's cross interrogatories -	156	78
Defendant's direct interrogatories to Addison Dodge - - -	160	80
" " " Ebenezer Morrison - -	160	80
" " " Joseph Delaitre - - -	160	80
" to Ebenezer Morrison and J. Delaitre - - -	163	82
" Ebenezer Morrison - - - - -	163	82
" Addison Dodge - - - - - -	163	82
Defendant's direct general interrogatory to Dodge - - -	164	83
" " " " Morrison - -	164	83
" " " " Delaitre - - -	164	83
Plaintiffs' cross interrogatories to same - - - -	165	83
" " " Addison Dodge - - -	166	83
" " " E. Morrison - - -	166	84
Defendant's additional direct interrogatories to A. Dodge - -	167	84
Plaintiffs' additional cross interrogatories to A. Dodge - -	167	85
Answers of Addison Dodge to plaintiffs' direct interrogatories -	170	86
" (further) " " " " " - -	172	87
" " plaintiffs' cross interrogatories -	173	87
" " defend'ts additional direct interrogat's	173	87
" " plaintiffs' additional cross interrogat's	174	88
Plan of lot in controversy annexed to Dodge's deposition - -	176	88

	Original	Print.
Answers of Ebenezer Morrison to defendant's direct interrogatories -	178	89
" " " defendant's special direct interrog's	180	90
" " " plaintiffs' cross interrogatories -	181	90
" Joseph Delaitre to defendant's direct interrogatories -	181	90
" " " plaintiffs' cross interrogatories -	184	92
Defendant's direct interrogatories to Francis B. Morgan - -	185	92
Plaintiffs' cross interrogatories to Francis B. Morgan - -	186	93
Answers of F. B. Morgan to defendant's direct interrogatories -	188	94
" " plaintiffs' cross interrogatories - -	189	95
Defendant's direct interrogatories to Cyrus Goss - - -	193	97
Plaintiffs' cross interrogatories to Cyrus Goss - - -	194	97
Answers of Cyrus Goss to defendant's direct interrogatories - -	195	98
John Towle's certificate - - - - - -	196	98
Benjamin Dyer's certificate - - - - - -	198	99
John Thomas's certificate - - - - - -	198	99
Exhibit—deed from Parsons to Putnam - - - -	198	100
Claim of appeal - - - - - - - -	202	101
Bond - - - - - - - - -	202	102
Clerk's certificate - - - - - - -	204	103

MAINE DISTRICT, *ss:*

At a circuit court of the United States, for the first circuit, begun and holden at Portland, within and for said district, on the twenty-third day of September, in the year of our Lord one thousand eight hundred and fifty.

Present, the honorable Levi Woodbury, associate justice of the Supreme Court, and the honorable Ashur Ware, district judge.

Cont. 21.

CYRIL C. TYLER and Wife, plaintiffs in equity, vs. GEORGE N. BLACK.

On the twenty-second day of June, in the year of our Lord one thousand eight hundred and forty-seven, the following bill in equity was filed in said court by Frederick Hobbs, esquire, solicitor for the plaintiffs, to wit:

Plaintiffs' bill.

To the honorable the judges of the circuit court of the United States, for the district of Maine.

Cyril C. Tyler and Sarah P. Tyler, his wife, in her own right, of Hopkinton, in the State of New Hampshire, and citizens of said State, bring this their bill against George N. Black, of Ellsworth, in the county of Hancock, and State of Maine, and a citizen of said State, and thereupon your orator and oratrix complain and say, that one Aaron Putnam, now deceased, and formerly of Charlestown, Massachusetts, died in the year 1812, seized in fee simple, as tenant in common with one Zenas Parsons, or some other person to them unknown, of twelve hundred and twelve acres of land, being part and parcel of a tract of nineteen hundred and twenty acres of land lying in said district of Maine, and being lot numbered one, in township numbered thirty-three, in the middle division of lottery lots or land, and drawn by said Parsons in a lottery of said Commonwealth of Massachusetts, on ticket numbered one hundred [and] eighty-seven, and being the same 1212 acres conveyed to said Aaron Putnam by deed recorded in the registry of deeds for the county of Hancock, in book No. 8, page 248, as by a copy of said deed when produced, and to which, for greater certainty, reference is now made as part of this bill, will more fully appear.

And they further show unto your honors that, at the time of the death of said Aaron Putnam he left two sons and one daughter, your oratrix, his heirs-at-law; that John P. Putnam, one of said sons and heirs-at-law, died without issue about August 2, 1835; that the other

of said sons and heirs-at-law, Fitch P. Putnam, died on or about the year 1820, leaving issue, to wit, Edward P. Putnam, and Elizabeth P. Putnam, who, in January, 1837, married Albert G. Soule, and all of whom now reside at Fairfield, in the State of Vermont, and who are the heirs-at-law of the said Fitch P. Putnam; and that said heirs of Fitch P. Putnam and your oratrix have inherited said 1212 acres of land as tenants in common, and were seized thereof in fee simple, and tenants in common as aforesaid, until November 30, 1846, and that your oratrix was married to your orator on the 29th day of May, A. D. 1831.

And your orator and oratrix further shew unto your honors that, at the time of the death of the said Aaron Putnam your oratrix was a minor, under the age of twenty-one years, was unmarried, and was then residing in Massachusetts, beyond the limits of said district of Maine, and several hundred miles distant from said land, and has continued to reside out of said district, and remote from said land; that your oratrix had no legal guardian during her minority, and had no knowledge of said land or of her title thereto; nor did your orator or oratrix know that said Aaron Putnam ever was seized of, or owned the same, or had any interest therein; and further, that they were wholly ignorant and uninformed of said property, and of the right, title, and interest of your oratrix thereto, until on or about November 29, 1846.

And your orator and oratrix further aver that, prior to said November 29, 1846, said Black had been employed, or acted as the agent of the owner of the remainder of said 1920 acres, and had, before that time, explored said tract of land, or caused it to be done, and well knew the location, character, and value of the same; and they further aver, that said Black, before that time, had examined the registry of deeds for said county of Hancock, or caused it to be done for him, and was informed and well knew the title thereof, as the same appeared of record, to be in said Aaron Putnam; and further, that said Black had obtained full and exact knowledge of the character and value of said land and of the title thereto, for the purpose of purchasing the same at and for a small sum of money of the heirs-at-law of said Aaron Putnam whenever he should discover the same and their places of residence.

And your orator and oratrix further show unto your honors, that the whole of said tract of land on November 30, 1846, was well covered with a large and thrifty growth of pine, spruce, hemlock, and other timber of great value; and that said tract of land is so intersected by streams, and lies so near to rivers and streams running through said township, that said timber can be removed therefrom and driven to Ellsworth, a short distance, as a place of manufacture and a market, with comparatively little expense; and that said land on the 30th November, 1846, was not less, and your orator and oratrix believe much more, than twenty thousand dollars, all of which was then well known to said Black.

And they further show unto your honors, that said Black had, for

many years, and they believe from childhood, resided at said Ellsworth; and that well knowing the location, character, and value of said land, and that the same belonged to the heirs-at-law of said Aaron Putnam, he was at great pains and considerable expense to discover who *who* said heirs were, and their places of abode, and in November last (1846) made a journey from Ellsworth to Fairfield, Vermont, to purchase said land of said A. G. Soule and wife, and said E. P. Putnam, who, the said Black, as your orator and your oratrix believe, had been informed, were the sole heirs-at-law of said Aaron Putnam, and offered them fifty dollars, or some other small sum of money, for their deed of said land; but the said Black refusing to communicate to said heirs freely all the information he possessed respecting said land, and said heirs being, until that time, ignorant of their title thereto, refused to accept said offer of said Black.

And your orator and your oratrix further show unto your honors, that said Black, as they are informed and believe, made inquiry of said Soule and wife and Putnam, or some of them, if they were the only heirs of said Aaron Putnam, and said Black was at that time informed that they were not; and it was then and there for the first time communicated to said Black that your oratrix was a daughter of said Aaron Putnam, that she was the wife of your orator, and that they were seized in her right, as heir-at-law of said Aaron Putnam, of an undivided half of said 1,212 acres of land; and they further show, that said Black not having succeeded in purchasing the interest of said Soule and wife and Edward P. Putnam as aforesaid, and having been informed by them of the heirship and title of your oratrix, forthwith made a rapid journey, and so that he might anticipate any communication from said Soule and wife and Putnam to your orator and oratrix, and arrived at said Hopkinton on Sunday evening, for the purpose of purchasing said land of your orator and oratrix, to whom, up to that time, the said Black was an entire stranger.

And they further show unto your honors, that on said Black's arrival at the hotel in said Hopkinton, on Sunday evening, November 29, 1846, he made inquiry of the landlord, or some other person, as to the character, property, and pecuniary ability of your orator, for the purpose of knowing how to approach him on the subject of said purchase; being informed thereof, requested to have your orator sent for to go to the hotel; that your orator immediately called on said Black, who introduced himself, and expressed a wish to have some conversation with your orator; and thereupon inquired if the wife of your orator was a daughter of Doctor Aaron Putnam, formerly of Charlestown; to which your orator replied that she was. The said Black then asked your orator if he or his wife knew anything concerning a piece of land in Maine that her father had owned; to which your orator replied that he had no knowledge of it, and presumed his wife had none; whereupon the said Black said that there was a piece of land some where in Maine which Dr. Putnam once owned, being part of a lot drawn by one Zenas Parsons, of Springfield, in a lottery; that Dr. Putnam had pur-

chased of said Parsons, but had probably conveyed it to some other person; and to the inquiry by your orator where said land was situated, said Black replied "in township numbered thirty-one," but refused to tell your orator in what particular county in the State of Maine it was situated, so as to prevent your orator's examining the registry of deeds therein, and thereby getting a full knowledge of said land, and of the title of your oratrix to one-half thereof.

And they further show unto your honors, that your orator, at said interview with said Black, remarked to him that, if Doct. Putnam had conveyed said land to some other person, your orator or his wife could have no right thereto, and inquired of said Black why he wished to have a deed from your orator and his wife; to which said Black replied, that he had been examining the records to find where a transfer had been made by Doct. Putnam, and as yet could find none; that he was willing to pay your orator's wife liberally for a deed, even if he should find it had been transferred; and to an inquiry by your orator what he should be willing to give, said Black replied, "I mean to be liberal; I will give her fifty dollars."

And they further show unto your honors, that your orator then went home to make inquiries of his wife on the subject, and found she never had heard of said estate, or of her title thereto. And your orator then returned to the hotel on the same evening, and informed said Black that your oratrix was entirely ignorant thereof. And, in a further conversation with said Black on the subject, your orator said to said Black that there must be a deed on record if said Putnam owned said land; to which said Black replied that there was no deed, but a lottery ticket only, which might be transferred from one individual to another the same as a bank bill; and said Black then described said ticket, to show your orator how large it was. And your orator then asked where said ticket was recorded, and where the record thereof could be found; to which inquiry said Black, well knowing to the contrary, made answer and said, it might be found recorded in Springfield, Charlestown, or Boston; and, finally, that he did not know where it was recorded, and that your orator never probably would be able to find the record of the same. And your orator avers that said Black then remarked, that he had been for a number of years examining register's offices for titles of land, and particularly of this piece, and had been to considerable expense about the same, and had paid taxes thereon for twenty-seven years, or thereabouts, and for which he claimed to have a lien; and that whoever claimed said land would be holden to pay said Black whatever he had so paid out, and twenty-five per cent. interest thereon; and that the whole sum so due him for taxes, interest, and expenses, was, as your orator believes, the sum of three hundred dollars.

And they further show unto your honors that your orator inquired of said Black, at the interview aforesaid, what said land was probably worth; and that thereupon said Black declared to your orator that he had never been on to it, but that if your orator would pay him the taxes, interest, and expenses aforesaid, and give said Black fifty dollars,

he would tell your orator all he knew about said land. That your orator then inquired of said Black how many acres there were in the whole which once belonged to said Aaron Putnam; to which said Black replied, that there might be from three to four hundred acres; and to a direct question put by your orator, whether there were more than five hundred acres in the whole, the said Black positively declared there was not.

And they further represent that said Black, as another inducement to your orator and oratrix to part with their title and interest in said land, for an inadequate price, told your orator at said interview, that said Black claimed to own the whole of said township, except a part which said Parsons had retained, and which his daughter had conveyed to some person in Boston, and supposed he was safe in holding the same until recently, when some person, whose name, if given, is not remembered, had come forward and claimed a large part of it; whereupon said Black said he thought he might as well lock up the remainder and fortify his title thereto; and that said claimant had paid for whatever interest he had therein, twelve and a half cents per acre, and no more.

And they further shew unto your honors, that at the time of said interview and conversation, the said orator asked said Black why he had not had said land sold for the taxes assessed thereon, and thus obtained a title thereto; and that said Black replied that it was his purpose so to do, if he could not then get a deed of your orator and his wife, but that he would rather pay a small sum than to go through the process of advertising and selling and redeeming. And said Black further said it was the intention of the owner of the part purchased of Z. Parsons' daughter to have a division of said land, and that he, said Black, was anxious to have a title deed thereof, that he might have a voice in said division; and further represented to your orator that if said Black should sell said estate for taxes; your orator and his wife would never know anything about it.

And they further show unto your honors, that said Black pressed your orator to close said bargain on the night of the 29th November, 1846, alleging that he was under the necessity of leaving Hopkinton at 4 o'clock the next morning; but your orator was unwilling to do so without further consultation with his wife, and then informed said Black that your oratrix, in her own right, owned one-half only of whatever land descended from her father, the said Aaron Putnam, and that their deed would only convey one-half thereof to said Black, and thereupon left said Black at said hotel.

And they further represent and allege that your orator received a message from said Black at an early hour on the morning of Nov. 30, 1846, that he would pay your orator one hundred dollars for the interest of your orator and his wife, to be conveyed to him by deed of quit-claim of the whole of said estate, if said Tyler would give said Black an obligation to refund fifty dollars thereof, if the title thereto, or to one-half thereof, proved to be in some other person.

And your orator and oratrix aver that, confiding in the truth of the representations of said Black in said conversations with your orator, and believing them to have been made in entire good faith, as to the character and value of said lands and the incumbrances thereon; and being thus induced to believe that the title of your oratrix was of an uncertain and doubtful character, your orator, in behalf of himself and wife, finally acceded to the proposal of said Black, and agreed to give him their quit-claim deed of said estate for the consideration and on the condition aforesaid.

And your orator and oratrix further show unto your honors, that having thus settled the terms of said bargain, they employed one Joseph Stanwood to write said deed and obligation, and that when said scrivener was writing said instruments, your orator again inquired as to the character and value of the land; when said Black declared he knew nothing about it; that, for ought he knew, it might be an entire bog; and at the same time said Black requested said scrivener to write the consideration in said deed one thousand dollars, instead of one hundred dollars, the sum agreed upon and actually paid and received, that said Black might, as he said, the more readily sell said land if he were so disposed.

And your orator and oratrix further show unto your honors, and positively allege, that your orator, induced by the statements and representations of said Black, and your oratrix relying on said statements and representations as reported to her by her husband as true in every particular, made, executed, and delivered to said Black, on the 30th Nov., 1846, their deed of quit-claim and release of said estate, and their said obligation to refund one-half the consideration thereof; which deed and obligation for greater certainty they refer to as part of their bill of complaint, and pray your honors to inspect the same when produced by said Black.

And your orator and your oratrix further show unto your honors, that said Black, during the whole of said interview, conversations, and negotiation concerning said estate, studiously concealed from your orator the fact that he had been to Fairfield, Vermont, and had there attempted, without success, to purchase said land of said Soule and wife, and Putnam; and also that he had been there informed by them that your oratrix was one of the heirs-at-law of said Aaron Putnam, and resided at Hopkinton; but of which facts your orators were advised by said Soule on the arrival of the first mail from Fairfield after said Black had left said Hopkinton.

And your orators aver that the statements and representations of said Black, during said interview and negotiations concerning said land, in many essential particulars were false, and made for the purpose of inducing your orator and oratrix to sell and convey said estate to said Black at a price grossly inadequate therefor; and that during the same interview and negotiation for said land, and with the like fraudulent purpose, the said Black concealed from your orator every fact by which your orator and oratrix could learn the exact location of said land, or

the registry of deeds in Maine where the same was recorded, and by means of which they could have obtained information that would have placed your orator and oratrix on an equal footing with said Black in bargaining for said land; and further, that said Black, at the times aforesaid, refused to discover to your orator every fact going to enhance the price of said land, many or all of which were well known to said Black, either from personal examination, or from the exploration, observation, and report of some other person or persons, on whose representations and judgment said Black could safely rely; and they aver that the claim of said Black to said land under a tax title thereto is groundless, having no foundation in fact or law; and that said Black has no lien or claim on said estate for taxes, or for money paid therefor, and that said estate is in no ways encumbered thereby.

All which doings and acts of said Black are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator and oratrix in the premises.

To the end, therefore, that said Black, if he can, may show why your orator and oratrix should not have the relief hereby prayed, and may upon his corporal oath, and according to the best and utmost of his knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by the note herein under written the said Black is required to answer, that is to say:

1. Whether said Aaron Putnam died seized in fee simple as tenant in common of said estate in the year 1812; and if not, how otherwise; whether said Sarah P. Tyler was the daughter and heir-at-law of said Aaron Putnam, and whether she inherited an undivided half of said twelve hundred and twelve acres, and if not, how otherwise?

2. Whether said Sarah P. Tyler is the wife of your orator, and whether she was a minor, unmarried, and resided in Massachusetts at and from the time of the death of said Aaron Putnam, without a legal guardian, till the time of her marriage on the 29th day of May, A. D. 1839; and whether said marriage took place on said day?

3. Whether your orator or said Sarah P. Tyler had any knowledge of the existence of said land, or of her title thereto, until your orator was informed thereof on or about November 29, 1846, by said Black; and, if so, when and how did they obtain their knowledge thereof; and whether your orator did not tell said Black, on or about said 29th November, 1846, at said Hopkinton, that neither your orator nor his wife had any such knowledge until the fact was communicated to your orator by said Black; and whether said Black, prior to November 29, 1846, was not a stranger to your orator and your oratrix?

4. Whether said Black had not, prior to November 29, 1846, made a personal examination, or caused one to be made, of said land, or some part thereof, and what part thereof; and when was such examination made by said Black or other person; for whom, and by whom, and when was it made; and whether said Black had not, prior to the 29th November, 1846, been the agent of the owner of the other por-

tion of said 1,920 acres, and how long prior had he been such agent; and whether, during his said agency, he did not obtain particular knowledge or information in some way, and in what way, particularly, of the character and value of said 1,212 acres, or of said lottery lot of 1,920 acres; and whether, prior to said 29th November, 1846, said Black had not examined the registry of deeds for the county of Hancock, or caused the same to be done, and ascertained that said Aaron Putnam appeared of record to be the owner of 1,212 acres of land by deed therein recorded?

5. Whether said Black did not make such exploration and examination of said land and registry, or cause the same to be done, with the design and purpose of buying said land for some small sum of money, or otherwise, of the heirs-at-law of said Aaron Putnam, whenever they should be discovered; and whether said Black did not make a journey to Fairfield, Vermont, for the sole purpose of discovering who said heirs were, or of purchasing said 1,212 acres of said Soule and wife and E. P. Putnam, supposing them to be the only heirs of said Aaron Putnam; if not, how otherwise; and whether he did not offer to pay said Soule and wife and Putnam, for said estate, the sum of fifty dollars, or other small sum, and what for their deed of quit-claim thereof; and whether they refused the same; and whether said Black was not informed at said Fairfield, and did not there learn, for the first time, that said Sarah P. Tyler and your orator in her right were the owners of one half of said land, and were seized thereof as aforesaid as the heirs-at-law, in right of your oratrix, of an undivided half thereof; and whether said Black, on being refused said land, and being informed of your oratrix's heirship and title as aforesaid, did not make a rapid journey from Fairfield to Hopkinton, so as to anticipate any communications from said Soule and wife and E. P. Putnam by mail on the subject of said land.

6. Whether said lottery lot, of which said 1,212 acres are parcel, on Nov. 30, 1846, was not well covered with a large and thrifty growth of pine, spruce, hemlock, and other kinds of timber; and how many thousand feet of each kind, has said Black been informed, or from personal examination does he estimate or judge, there were to an acre at that time on said 1,920 acres; what would it cost per thousand feet to cut and haul and drive the same to Ellsworth; what would be the value thereof per thousand feet, in the log unmanufactured, at the boom in Ellsworth, in the ordinary lumbering seasons; how many logs of the pine, on said tract, would it take to make a thousand; ordinarily, or on an average, what would they average in quantity, of each kind, in the log; what is the distance from Ellsworth to the said land, and whether Ellsworth would be the place of manufacture and sale of said lumber, in the ordinary course of lumbering operations on said land; whether said land is not intersected by brooks and surrounded by larger streams and ponds, so that said lumber could be easily and cheaply hauled to the banks of said brooks and streams; whether Union river runs through said township and near said land, and how

many thousand feet of logs a four-ox team could haul, during an ordinary lumbering season, from said lottery lot to the banks of streams from which said logs would be driven, and what distance would said logs have to be hauled to said streams; what the shortest distance and what the most remote; and what other circumstances, not herein before inquired about, would go to make up the price and value of said logs per thousand feet; and whether said 1,212 acres, parcel of said 1,920 acres, were not worth twenty thousand dollars and more on said 30th November, 1846; and if not, how otherwise; and what sum were said 1,212 acres worth at that time; what was it worth both with and without the timber per acre?

7. Whether said Black did not arrive at said Hopkinton on Sunday evening, Nov. 29, 1846; and if not, at what time did he arrive there; whether, on his arrival there, he did not make inquiry of some person, and of whom, as to the character and pecuniary ability of your orator, for the purpose of knowing how to approach him on the subject of said land; and whether said Black did not send some person, and whom, to said Tyler to request him to call on said Black at said hotel; and whether said Black did not there introduce himself to your orator, and hold the conversations with him hereinbefore particularly set forth, concerning the heirship of your oratrix, and the land afterwards conveyed to said Black by them; and if said conversations are not hereinbefore correctly set forth in every particular, whether they are not in substance recited; and if they are not substantially recited, that said Black will state wherein they are incorrectly recited, either on the part of your orator or of said Black.

8. And particularly whether said Black, during said conversation, did not ask your orator if he or his wife knew any thing concerning said land, or of their title thereto; and whether your orator then informed said Black that neither he nor his wife knew any thing of either; and if not, how otherwise; whether said Black did not represent said land as lying in township numbered thirty-one; and whether said Black did not then and there refuse to mention the county where said land was situated; and whether said Black did not so misname the township, and refuse to state the county where said land was situated, to prevent your orator from examining the registry of deeds in the county of Hancock, and obtaining exact and full knowledge of the character and value of the property, and of their title thereto; and if not, for what purpose was said incorrect statement made, and said correct information withheld, by said Black; and whether said Black, during his stay at Hopkinton, declared what was his object in so doing; if so, what did he then and there state to be his purpose in these particulars?

9. Whether said Black, during said interview and conversation, told your orator there was no deed on record showing the title of said Aaron Putnam, but that said Putnam's evidence of title was a lottery ticket only, which might be transferred from one individual to another as a

bank bill; and whether said Black knew, at that time, where said lottery ticket was recorded; or that in the deed of said Zenas Parsons to said A. Putnam it was recited to have been recorded in the office of the secretary of the Commonwealth of Massachusetts; and whether said Black did not then know that said Z. Parson's deed to said A. Putnam was recorded in the registry of deeds for the county of Hancock?

10. Whether during said interview and conversation said Black claimed to have a title to said land by virtue of a tax sale and deed thereof, or to have any lien on said land for taxes assessed thereon, paid by himself, and 25 or other, and what per cent. interest on the same, and for other expenses incurred in relation thereto; and whether in fact said Black had any title thereto prior to November 30th, 1846, or any lien on or claim to said land by reason of taxes assessed thereon, as he pretended to your orator to have, to the amount of three hundred dollars, or other sum, and to what amount particularly; and, if so, that said Black may set forth for what years, and by whom, and for what purposes, were said taxes assessed on said land, and the proceedings in relation thereto; and that said Black may set forth in his answer, how and in what manner he derives his said pretended title to said land, and by and under what deeds or deed, writings or writing, and that he may set forth the dates and contents of all such deeds and writings; and particularly by whose request, and for whose use and benefit, said Black paid any money for taxes or other expenses on said land, as in said deed or writings, if any such exist, is expressed, and particularly the time of payment of every part and the whole thereof; and especially by what authority he claims to have 25, or other per cent. interest thereon; and whether any deed or deeds thereof to said Black, if any, have ever been recorded; and, if so, when, and the book and page of the registry where the same are recorded?

11. Whether said Black represented to your orator, that some person had come forward to claim of said Black, or other person, said land, or any part thereof, and what part; and if so, when was it so claimed, and who was the claimant, and what was paid therefor by the acre to get rid of said claim or otherwise; and whether such claim, real or pretended, was the actual motive that actuated said Black in purchasing the remainder of said Z. Parsons' lottery lot, not before conveyed to such person in Boston by said Z. Parsons' daughter, as is herein before alleged?

12. Whether said Black pressed your orator to close the bargain during the night of November 29, or morning of the 30th, on the ground that said Black might leave town at four o'clock in the morning of the 30th November, 1846; and whether during said night, and before the separation of your orator and said Black, he, said Black, professed to be liberal in his offer for said land, and thereupon offered to pay your orator and his wife fifty dollars therefor, and whether your orator informed said Black before the deed thereof was drawn, that your oratrix, his wife, was heir to and seized of one-half only of said land;

whether your orator and said Black did not separate on the evening of November 29, 1846, without closing any bargain; whether said Black did not, in the morning of the 30th of said November, send a message to your orator, that he would pay your orator and his wife one hundred dollars for their quit-claim deed of said land, if your orator would give him an obligation to refund fifty dollars, if any other persons should thereafter claim the other half thereof; and whether said bargain was not finally struck and concluded on said terms?

13. Whether Joseph Stanwood, of said Hopkinton, was employed to write the deed thereof at the expense of your orator; whether the consideration of one thousand dollars therein stated to have been paid by said Black, and received by your orator and oratrix, was the true consideration so paid and received; and, if not, for what purpose and by whose request was said sum of one thousand dollars so inserted, and whether it was not so inserted by said Black's request, and to help him the better to sell the same; and did not said Black so declare his purpose; if not, what was the purpose of said Black; whether more than one hundred dollars was in fact paid and received as aforesaid as the true consideration, and on the conditions above stated?

14. Whether, when said deed was being drawn, your orator again inquired of said Black as to the character and value of said land, and whether said Black then declared he knew nothing about it; that for aught he knew it might be an entire bog; and if not, how otherwise?

15. Whether said Black did not, during said interview with your orator, forbear to inform your orator that said Black had been to Fairfield, Vermont, to attempt to purchase said land of said Soule and wife, and Putnam, and had failed so to do; and further, did he not neglect to state to your orator and his wife that said Black there learned, for the first time, that your orator and your oratrix, in her right, were also heirs-at-law of said Aaron Putnam, and inherited one-half of whatever estate descended from him, the said Aaron?

16 Whether the representations made to your orator by said Black, as hereinbefore alleged, were true in every particular; and if not true in every particular, wherein said alleged representations were incorrect or untrue?

17. Whether said Black, at said interview and negotiation with your orator, concealed from your orator and his wife, your oratrix, any fact or facts by which your orator and his wife could have obtained a better knowledge of their right, title, and interest in said property; and if so, in what particulars, not hereinbefore stated and interrogated to, was said fact or facts withheld from their knowledge, and the truth thereof by said Black improperly suppressed?

18. Whether your orator and his wife made, executed, and delivered to said Black their deed of quit-claim and release of said land, and gave him their promise in writing, or the promise of your orator, as part consideration for said deed, to refund fifty dollars, or some other sum, if any other person or persons should hereafter claim one-half or other part of said land; and if so, or however it may have been, that

said Black will produce to your honors the said deed and writing of your orator and his wife, or true copies thereof, and make the same part of his answer?

And that said deed of your orator and your oratrix, and their said written promise, or the written promise of your orator, dated November 30, 1846, may, by a decree of your honors, be given up, and be cancelled by said Black; and that said bargain and sale may be declared to be void, and of no effect; and that your orator and your oratrix may have such further and other relief in the premises as to your honors shall seem meet, and according to equity and good conscience.

May it please your honors to grant unto your orator and oratrix the writ of subpœna of the United States of America, to be directed to said George N. Black, thereby commanding him at a certain day, and under a certain pain therein to be specified, personally to be and appear before your honors in this honorable court, and then and there to answer all and singular the premises, and to stand to, perform, and abide such order and decree therein as to your honors shall seem meet.

CYRIL C. TYLER,
SARAH P. TYLER,
By FRED. HOBBS,
Their Attorney.
FRED. HOBBS,
Counsel of C. C. Tyler and Sarah P. Tyler.

NOTE.—The said Black is required to answer all interrogatories, from one to eighteen, inclusive.

By FRED. HOBBS,
Solicitor and counsel.

Whereupon the following subpœna issued, to wit:

Subpœna in chancery.

The President of the United States of America to George N. Black, of Ellsworth, in the county of Hancock, and State of Maine, [L. S.] and a citizen of said State, greeting:

For certain causes, offered before the circuit court of the United States, for the first circuit, as a court of chancery, we command and strictly enjoin you, laying all other matters aside, and notwithstanding any excuse, that you personally appear before the circuit court aforesaid, at Portland, in said district, on the first Monday of August next, at ten of the o'clock in the forenoon, to answer concerning those things which then and there may be objected against you by Cyril C. Tyler and Sarah P. Tyler, his wife, in her own right, of Hopkinton, in the State of New Hampshire, and citizens of said State of New Hampshire, and to do further and receive that which said court shall do and order in this behalf, and this you are in no wise to omit; and have you there this writ.

Witness the honorable Roger B. Taney, chief justice of the United States of America, at Portland, the twenty-second day of June, in the year of our Lord one thousand eight hundred and forty-seven.

J. MUSSEY, *Clerk*.

Which is returned with the following endorsement thereon, to wit:

UNITED STATES OF AMERICA, *Maine district, ss:*

June 23d, 1847.

I hereby certify, that on this day I delivered a true and attested copy of this subpœna to the within named George N. Black, personally.

ALVIN HAINES,
Deputy marshal.

And at May term, in the year of our Lord one thousand eight hundred and forty-seven, said cause is entered, to wit, at the adjournment thereof, held on the twelfth day of July of the same year. And on the second day of August, then next ensuing, James S. Rowe, esquire, enters his appearance as solicitor for the defendant. And on the sixth day of September, then next ensuing, it being an adjournment of said May term, it is, by agreement, ordered, that the time for filing the defendant's answer to said bill be, and it accordingly is, extended to the first day of October then next ensuing, and the cause is thereupon continued to next term; and at the next term, to wit, October term, in the year eighteen hundred and forty-seven, on the fourth day thereof, as of the first, by consent of the plaintiffs' solicitor, is received and filed.

Defendant's answer.

The answer of George N. Black, defendant, to the bill of complaint of Cyril C. Tyler and Sarah P. Tyler, his wife, complainants.

This defendant, now and at all times hereafter, saving and reserving to himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainants' said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant answering says: That he has been informed, and he believes it to be true, that the said Aaron Putnam died in the year 1812, seized in fee simple and as tenant in common, as is alleged in said bill of complaint, of the twelve hundred and twelve acres of land therein described; and that the said Sarah P. Tyler is the daughter and one of the heirs-at-law of the said Aaron Putnam, but he does not know the same of his own knowledge; and that he knows not, and has not been informed, save by said complainant, Cyril C. Tyler, and cannot set forth, as to his belief or otherwise, whether she has inherited an undivided half of said twelve hundred and twelve acres of land, but admits that he has been informed, and believes it to be true,

that she has inherited some undivided portion of said land, but what portion is, in the belief of this defendant, uncertain.

And this defendant further answering saith, that he has been informed, and he believes it to be true, that the said Sarah is the wife of the said Cyril; but he knows not and has not been informed, save by the said complainants' said bill, and cannot set forth, as to his belief or otherwise, whether she was a minor unmarried, and resided in Massachusetts, at and from the death of said Aaron Putnam, without a legal guardian till the time of her marriage on the 29th day of May, 1839, nor whether said marriage took place on that day.

And this defendant further answering says, that he saw the said Cyril C. Tyler for the first time in Nov. 29th, 1846, at Hopkinton, in the State of New Hampshire; that he has never seen the said Sarah; that the said Cyril, at that time, said to this defendant that neither he nor his wife had any knowledge of the existence of said land, nor of her title thereto, until informed thereof by this defendant; and that is all the information which this defendant has as to their knowledge, save what is stated in their said bill.

And this defendant further answering says, that he had not, prior to Nov. 29, 1846, nor has he since, made a personal explanation, or caused one to be made, of said land, or of any part thereof; that, to the best of his knowledge and belief, he has never been on said lottery lot, nor received any information relative to it, either verbally or in writing, directly or indirectly, from any person who has examined it. He further says, that his father, John Black, of said Ellsworth, has been for more than thirty years last past employed as the agent of non-resident proprietors of large tracts of wild land, embracing many townships in that section of the State, and, among others, of Joseph Tilden, of Boston, Mass., who is the proprietor, as this defendant believes, of all said township No. 33, except these 1,212 acres, five lots of 160 acres each, and the public lots; that, ever since the year 1833, this defendant has been connected with his father in the business of said agencies, and is in the habit of visiting the several townships under their care, whenever there are lumbering operations on them; that twice and thrice only, since 1833, there have been lumbering operations on said Tilden's part of this township, in the season of 1845–'6, with one team, and in the season of 1846–'7 with two teams; that, during said operations, this defendant visited this township, but not more than three or four times in the whole, and for the sole purpose of looking after said operation; that he confined himself on these visits to the logging roads, none of which, to the best of his knowledge and belief, touch said lottery lot; that he has not been on said township at any other times except when crossing it to get on to other townships by a winter road, which runs through a part of it, more than a mile from this lot; and denies that he has any particular knowledge or information as to the character or value of said lot. He further says, that it is a part of the business of said agencies to pay the taxes assessed on the land under their care; that the taxes on this township have, during all the time of said agency for Tilden,

been paid by his father or himself, as though the whole of said lottery lot was the property of said Tilden; that this defendant believed, till recently, that said Tilden did own the whole of it; that, in the year 1844, as he thinks, certainly as early as the year 1845, he accidentally heard that said Tilden did not own the whole of it; that, thereupon, he examined the records in the registry of deeds for Hancock county for the purpose of ascertaining in whom the title was vested, and could find nothing there relative to said lots; that he then examined a plan book of the townships in that section of the State, in which lottery lots were located, and there found the name of Zenas Parsons, Springfield, set down against this lot as the original owner of it. He further says, that he then believed that said land belonged to proprietors who had abandoned it as not being worth the taxes and expense of taking care of it, and thereupon conceived the design of purchasing it; and with this object in view, when he was next in Boston, which was in November, 1845, he took advantage of a leisure day—it was thanksgiving day—to visit Springfield for the purpose of ascertaining the heirs of said Parsons, presuming that he was dead, as the lot was drawn by him in the year 1789. He went to Springfield and returned back to Boston on the same day. At Springfield he was directed for information to one S. Reynolds, who, on being consulted, told this defendant that he had been attorney for a Mrs. Sheldon, one of the heirs of said Parsons; that he knew nothing about this lot himself; that Mrs. Sheldon resided in New Jersey, and that he would write to her on the subject. Afterwards, in the month of February, 1846, as he believes, this defendant wrote to said Reynolds, proposing to purchase a release of Mrs. Sheldon's title to said lot, and soon after received a reply from him, in which he stated that he had a communication from Mrs. Sheldon, in which she said that she sold 707 acres of this lot to a Mr. Tilden, of Boston, in 1829; and that she had the impression that her father sold the rest of the lot, but did not know whether the sale was consummated, and that she was unwilling to give even a quit-claim deed without knowing more in relation to the title; that, after receiving said letter from said Reynolds, this defendant employed the register of deeds for said Hancock county to make an examination of his records relative to this title; that said register afterwards handed to him, as the result of such examination, a writing, of which the following is a copy:

"Elizabeth Sheldon to Joseph Tilden, of Boston. Warrantee deed of 708 acres of land, being an undivided part and parcel of lot No. one, in township thirty-three, M division; said lot being drawn by ticket No. 187, held by Zenas Parsons; deed dated July 22, 1829; recorded in book 53, page 353.

"F. B. MORGAN."

That this defendant did nothing further in the matter till the latter part of the summer of 1846, when said Tilden was at Ellsworth; that he then made inquiries of said Tilden, and was informed by him that said Parsons conveyed to one Dr. Putnam, of Charlestown, a part (what part he did not state) of this lot, as he had understood, but that

he, the said Tilden, had no knowledge of the title, and this was the first information that this defendant received in relation to the said Putnam title; that this defendant took no further steps in the matter until he was in Boston, in November, 1846, on other business, when he made inquiries in Charlestown and Boston for said Putnam, or his heirs, and was informed that Putnam was dead, and that a nephew and niece of his were residing in Fairfield, Vermont; that he then went to Fairfield and saw Mr. and Mrs. Soule and Edward P. Putnam, and was informed by them that said Aaron left four children and heirs; that one of them was their father, who was deceased; another, John J. Putnam, who died without issue; a third, a son, of whom nothing had been heard for a number of years, and who they believed must be dead; and a daughter, who married a Dr. Tyler, and, when last heard of by them, which was then more than three years gone, was living at Hopkinton, N. H.; that after an ineffectual attempt to purchase their interest in this land he proceeded to Hopkinton and purchased the interest of these complainants, and soon after returned home; that when he went to have these complainants' deed to him recorded, he again examined the records, and then, for the first time, discovered that Parson's deed to Putnam was recorded; and denies that he had, prior to November 30, 1846, ascertained that said Aaron Putnam appeared by record to be the owner of said 1212 acres.

And this defendant further answering says, that he commenced his search for the owners of said land with the design and purpose of buying it at such a price as would afford him a profit on it, of whomsoever might own it; that when he had been informed that the title to a part or the whole of said 1212 acres was, probably, vested in the heirs of said Aaron Putnam, and that some or all of them resided in Fairfield, he went there for the purpose of ascertaining the facts and purchasing the interests of all the heirs that he could find there; but he denies that he went for the purpose of purchasing said 1212 acres, for he had not then ascertained of how much said A. Putnam died seized; that after Mrs. Soule and E. P. Putnam gave him the information hereinbefore set forth, relative to the other heirs, this defendant offered them one hundred dollars for their interest in said lot, which they refused. He admits that he then, for the first time, was informed of the title of the complainants, but denies that he was there informed, or that he there learned, that they were the owners of one half of said 1212 acres, or seized thereof; and says, on the contrary, that he received no information there as to the number of acres of which said A. Putnam died seized, nor any information as to the extent of Mrs. Tyler's interest in his estate, other than what is hereinbefore set forth; he admits that he went from Fairfield to Hopkinton, but denies that he travelled with more than his usual rapidity, or that he increased his speed for the purpose of anticipating any communication from said Soule and wife and said E. P. Putnam on the subject of said land; on the contrary, he says that he went from Fairfield to Boston to join his wife, whom he had left there; that Hopkinton was on his direct

route; that he travelled from Fairfield to Hopkinton by the public conveyances that run regularly over the road; occupied two days and a half in the journey, sleeping two nights on the way; and that he was not aware that said Soule or his wife, or said E. P. Putnam, had anything to communicate on the subject of said land; that they had told him that they had no knowledge on the subject, and this defendant had given them no information which he was not ready and willing to impart to these complainants.

And this defendant further answering says, that he has no knowedge or information of the quantity, quality, size, or location of the timber on said lottery lot in November 30, 1846, and can form no estimates that require such knowledge or information for a basis; that this township is well watered; that Union river runs through it to Ellsworth, which is about thirty-five miles distant from it, and is the nearest market for lumber cut on it; he is of opinion that lumber can be easily and cheaply hauled from this lot (if there be any on it) to waters suitable for running it to Ellsworth; he has not the knowledge necessary for forming an accurate opinion of the value of said land. In making said purchase he acted on his impression of its value derived from his general knowledge of that township and the adjoining lands, and then believed, and still believes, that it was and is worth somewhere from fifty cents to two dollars the acre.

And further answering says, that he arrived at Hopkinton on Sunday evening, Nov. 29, 1846; that directly on arriving he expressed a wish to see said Tyler to Joseph Stanwood, whom he saw at the inn at which he stopped, and who appeared to be connected with it. Stanwood promised to send for him, and soon after informed this defendant that he had sent his boy, who had returned with the report that said Tyler was not at home; that about an hour afterwards, said Tyler stopped before the tavern to water his horse, and the landlord, or some other person about the house, called him in; that, during said hour of waiting, this defendant fell into conversation with said Stanwood, and, among other subjects, talked of said Tyler, and inquired as to his professional skill and reputation, the extent of his practice, his character and circumstances, &c., but denies that he made any such inquiries before sending for him, or for the purpose of knowing how to approach him on the subject of said land; and he further says, that as soon as said Tyler came into the house, he and this defendant entered into conversation; that Mr. Tyler, in answer to his inquiries, informed this defendant that his wife was a daughter and heir of the said Aaron Putnam; that he had no knowledge, and he presumes that his wife had none, of any land in Maine owned by her father; that thereupon this defendant told him that there was a piece of land in Maine which said Putnam once owned, being part of a lottery lot drawn by Zenas Parsons, of Springfield; that said Putnam had it of said Parsons, but that he might have sold it, as he, the said Tyler, knew nothing about it; and to the inquiry of said Tyler where it was situated, this defendant replied that he

would give him no information whatever, unless paid therefor, as is hereinafter set forth; that to the inquiry of said Tyler why he wished a deed from these complainants, which would be of no value if Dr. Putnam had conveyed the land, this defendant replied, that he had examined the records, and could find no conveyance to or from Dr. Putnam, but he had been informed that Parsons had sold to him part of said lot, and therefore was willing to pay something for a deed from them, and run the risk of their having title; that the said Tyler asked him to make an offer, and this defendant offered him fifty dollars for his wife's interest; but whether he expressed any intention then, or in any other part of the conversations, of being liberal to the complainants, he does not recollect, and cannot state his belief.

And he further says, that at the subsequent interview on the same evening, said Tyler informed this defendant that he had seen his wife, and that she had no knowledge of the subject of the land, and then attempted, by various questions and remarks, to draw from this defendant his knowledge or information on the subject; and in the course of the conversation asked him what said land was worth, where it was located, how much there was of it, &c. To all which this defendant repeatedly replied, in substance, that he would give him no information, unless paid for so doing; that he had never been on the lot, and did not know how many acres belonged to said Aaron Putnam; that he had been for a long time endeavoring to discover the owners; had examined the records for that purpose, and had been at considerable expense about the matter; that "we" (meaning his father and himself) have paid the taxes on the land for 27 years, or thereabouts; that whoever claimed said land ought to pay them whatever they had paid out for taxes, and the interest which the statute allowed, in case lands were sold for taxes, which he believed to be 25 per cent., giving as a reason that they might have let the land have been so sold; and that this defendant would furnish to said Tyler, in writing, all the information which he possessed, if said Tyler would pay him the sums so paid for taxes and interest, and fifty dollars for his trouble; or that this defendant would give him fifty dollars for his and his wife's release of the land; and he further says, that said Tyler remarked that it was but right for the owners to pay what had been so paid for taxes and interest, and asked to what it would all amount; and this defendant replied that he could not tell; that it might amount to two or three hundred dollars.

And this defendant further says, that, in the course of said conversasation, the said Tyler remarked that there must be a deed on record, if said Putnam owned the land; to which this defendant replied, that he had found no deed recorded; that the title came from the State by a lottery ticket, and might be transferred by delivery of the ticket, and then described such tickets to said Tyler, and told him they were in shape like bank bills, a little larger, and signed by the managers of the lottery; the said Tyler then asked this defendant where said ticket could be found; to which he replied, probably among the papers of

Dr. Putnam, wherever they might be; the said Tyler then remarked, that said John J. Putnam had had all the papers belonging to the estate, and that Thomas A. Goddard, of Boston, was his administrator; and he further says that in said conversation, he told said Tyler that he had supposed that Mr. Tilden was the owner of the whole lot, and that, under that supposition they had paid taxes on the whole; that recently he had discovered that said Tilden owned but part of said lot, for which interest he had paid but one shilling per acre; and that when he made this discovery, he looked up the title for the purpose of buying the land.

And he further says, that in reply to said Tyler's inquiry, why he had not let the said land be sold for taxes, and thus get a title to it, this defendant said, that he could [have] let it be sold, but that he had rather buy it of the owners, if he could get it for a small sum, than go to the trouble of obtaining a tax title; that the owner of the other part of the lot would probably want to have a partition, and that he would like to have title before such partition was made, that he might have a voice in it; and he further says that, in this connexion, he did express the opinion, which was his sincere opinion, that said land might be so sold for taxes without the knowledge of said Tyler and his wife.

And this defendant admits, that he requested said Tyler to close the negotiation that evening because he was anxious to go to Boston in the first train of cars the next morning, which, as he understood, would make it necessary for him to leave Hopkinton at four o'clock; and says that his anxiety to reach Boston at the earliest practicable moment, because it was the last week in the season that the steamers were to run to the Penobscot, and he was anxious to close his business there in order that he might go home in one of them, was the sole motive of this request; and he further admits, that said Tyler did say to him, in the course of that conversation, but at an earlier period than that set forth in the bill, that his wife was heir to only one half of said Aaron Putnam's estate, and could convey but one half of any land that he left. And he further says, that when the scrivener was writing the deed said Tyler again inquired of this defendant as to the character and value of the land, and this defendant replied that he had never been on it, and did not know but that it was bog, or something to that effect.

And he further says that it is impossible for him to relate said conversation with verbal accuracy, or give the various remarks of the parties in the precise order in which they were made, but he says that the foregoing is, in substance, a correct statement of the conversations between the said Tyler and this defendant, so far as the same relate to the subject matter of this suit; that said conversations are not correctly stated in the complainant's bill, and that the statement thereof in said bill is incorrect in all particulars wherein it differs materially from the statement here given.

And this defendant further answering says, that he does not recollect, and cannot state his belief or otherwise, whether he told said Tyler that said land was in township numbered thirty-one, but says that he design-

edly concealed his knowledge and expressly refused to give said Tyler any information respecting the location of said land, or which might enable him to find it; and that his purpose in withholding said information was to obtain, as the price of communicating it, the reimbursement of himself and father for moneys paid out as before said for taxes, and payment for his trouble in finding the owners of it; and that he explicitly and repeatedly avowed this purpose to said Tyler during said conversation, and offered to furnish him in writing all the information which he possessed if the said Tyler would agree to pay said price.

And this defendant further answering denies that he told said Tyler that there was no deed on record showing said Aaron Putnam's title, but admits that he did say to him that he had examined the records and had found none, and that probably said Putnam's evidence of title was a lottery ticket, which might be transferred like a bank bill; and denies that he knew at that time where said ticket was recorded, and denies that he had seen said deed from Zenas Parsons to Aaron Putnam, or any copy of it, or had any knowledge or information of the contents or existence of said deed.

And this defendant further answering denies that he ever claimed to have any title to said land by virtue of a tax sale and deed thereof, or to have any lien thereon for taxes assessed thereon and paid by himself; but says, on the contrary, that he told said Tyler at said interviews that he might have let said land have been sold for taxes, but that he had not; and that "we" (meaning his father and himself) had paid the taxes and ought to be reimbursed in the sums so paid, with such interest as the law allowed in cases where lands were sold for taxes, which he believed, as he did believe, to be twenty-five per cent.; and that said Tyler replied that he thought that was right, and that whoever owned the land ought to pay them; and he admits, that he had no title to said land prior to November 30th, 1846, nor any lien thereon.

And this defendant further answering denies that he represented to said Tyler that any person had come forward to claim said land, or any part thereof, of him, or any other person; but on the contrary says, that he did represent to said Tyler that he had supposed that said Tilden owned the whole of said lot till some one informed him, as before stated, that said Tilden owned but part of it, and that that information induced said defendant to endeavor to find the owners of the rest of said lot in order to purchase their title thereto.

And this defendant further answering admits that said Tyler and himself did separate on the evening of November 29th without closing any bargain, and that on the next morning he sent a proposition to said Tyler and his wife, to the effect that he would pay them one hundred dollars for their quit-claim deed of said land, but denies that the condition annexed to said offer was, that said Tyler should give to this defendant an obligation to refund fifty dollars if any other person should thereafter claim the other half of said land; and says, on the contrary, that the condition of said offer was, that said Tyler should refund fifty dollars in case this defendant, in order to obtain an undisputed title to

said complainant's interest in said land, should be under the necessity of paying to said Thomas A. Goddard, administrator on the estate of John S. Putnam, the sum of fifty dollars or more, which condition was induced by the impression entertained by this defendant that said Aaron Putnam had had no evidence of title but said lottery ticket, that said ticket was in the hands of said Goddard, and the consequent apprehension that he might have to pay some sum of money to said Goddard to obtain such evidence of title.

And this defendant further answering admits that said Joseph Stanwood was employed to write the deed; that the consideration therein stated is one thousand dollars; and that the consideration actually paid was but one hundred dollars, and that the larger sum was inserted, by this defendant's request, and to help him the better to sell the land, and that he so stated at the time.

And this defendant further answering admits that he did not give any information to said Tyler as to his visit to Fairfield, or his object in going there, or the information that he obtained there.

And this defendant further answering says, that all the representations made by him to said Tyler were true, and that those representations were substantially as in this answer are set forth, however differently they may have been alleged in said bill.

And this defendant further answering says, that the complainants executed and delivered to him a deed of release of their interest in said land, and the said Cyril C. Tyler gave his obligation to this defendant to refund him fifty dollars on a certain contingency; copies of each of which instruments are hereunto annexed as part of this answer.

And this defendant further answering says, that he directed said Stanwood, when he was drawing said deed, to describe said land as a lot situate in township No. 33, in the county of Hancock, and State of Maine, being the same conveyed by Zenas Parsons, by deed recorded in Hancock registry, and the same drawn by him in a lottery; that when he gave those directions he had in his mind, and referred to, said deed from Mrs. Shelden to said Tilden, as described in the certificate of the register herein before recited, not at the moment recurring to the fact that said deed was from said Parsons' daughter and not from Parsons himself, and recollecting only that said deed contained a description of said lot; that said complainants' deed was made in great haste in the presence of said Tyler and of this defendant; that this defendant is unable to account for the fact that the latter part of the description refers to the right which said Putnam derived from said Parsons by said deed, and cannot say whether said part was inserted at the suggestion of said Tyler or of himself, or by the scrivener without any suggestion from either party; that he was in great haste at the time to close the business, and start for Boston, and he did not notice that part of the description till his attention was called to it by his counsel in preparing this answer; that he thinks it is improbable that it was inserted at his request, as he had no knowledge or information that any deed existed from said Parsons to said Putnam, though he thought it probable, from

all the circumstances, that such a deed once existed, and was not without hope and expectation that it would be found on record; for the reason that the records of said Hancock county are so badly arranged and indexed, that it is impossible for one to be certain that a deed is not recorded, except after a painful and very elaborate examination; and his examination, previously made, though prolonged and made with ordinary care, was not such as to entirely satisfy him. And he further says, that on his return home he made another examination of the records, and then discovered that there was recorded a deed from said Parsons to said Putnam of said 1,212 acres, for the consideration of six hundred dollars, of the date of March 25th, 1799.

And this defendant further answering says, that when he made said purchase of these complainants, he considered their title to be of doubtful validity and extent, and the land to be of uncertain value and quantity; that he first informed the complainants of the existence of their title, and that he was possessed of further information, and then, throughout said negotiation, fairly presented to them the choice of three courses—to convey their title, whatever may be its nature and value, to him for the price he offered; to purchase his information at the price he asked for it; or, rejecting both propositions, to trust to their own diligence or good fortune to discover the land and their title thereto. And he further says, that, before said sale and purchase were consummated by the execution and delivery of the deed, and the payment and receipt of the purchase money, these complainants were fully informed that said land was situated in township numbered thirty-three, in the county of Hancock, and that it was part of a lottery lot drawn by Zenas Parsons, of Springfield, from whom their title, if they had any, came; which was all the information that this defendant then possessed in relation to the situation of said lot and their title thereto.

And this defendant denies all and all manner of false and fraudulent representation, and fraudulent inducement, and fraudulent concealment, wherewith he is by the said bill charged, without this, that there is any other matter or thing in the said complainants' bill of complaint contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is willing and ready to aver, maintain, and prove, as this honorable court shall direct; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

GEORGE N. BLACK.
JAMES S. ROWE, *Solicitor.*

UNITED STATES OF AMERICA,
Maine district, ss:

On this twenty-ninth day of September, A. D. 1847, the said George N. Black, personally appeared before me, and made oath that he had

heard the foregoing answer read, and knew its contents, and that the same is true of his own knowledge, except the matters stated to be on his information or belief; and that as to those matters he believes them to be true.

JAS. S. ROWE,
Commissioner.

Deed from Tyler and Wife to Geo. N. Black.—Quit-claim deed—C. C. & Sarah P. Tyler to G. N. Black.

Know all men by these presents, that we, Cyril C. Tyler and Sarah P. Tyler, of Hopkinton, in the county of Merrimack, and State of New Hampshire, for and in consideration of the sum of one thousand dollars to me in hand, before the delivery hereof, well and truly paid by G. N. Ellsworth, in the county of Hancock, and State of Maine, have remised, released, and forever quit claimed, and by these presents do remise, release, and forever quit claim, unto the said G. N. Black, his heirs and assigns forever, a certain lot or parcel of land, situated in township No. 33, in the county of Hancock, and State of Maine, being the same conveyed by Zenas Parsons, of Springfield, county of Hampden, and State of Massachusetts, by deed recorded in Hancock registry, being the same drawn by said Parsons in a lottery, meaning to convey all the right which said Putnam derived from said Parsons by the above deed, which will more fully show.

To have and to hold the said remised premises, with all the privileges and appurtenances thereto belonging, to him, the said G. N. Black, his heirs and assigns forever; and we do hereby covenant with the said G. N. Black, that we will warrant and defend the said premises to him, the said G. N. Black, his heirs and assigns, against the lawful claims and demands of any person or persons claiming by, from, or under us.

In witness whereof we have hereunto set our hands and seals, this thirtieth day of November, in the year of our Lord one thousand eight hundred and forty-six.

CYRIL C. TYLER, [L. S.]
SARAH P. TYLER. [L. S.]

Signed, sealed, and delivered, in presence of us—
ISABEL P. TYLER,
JOSEPH STANWOOD.

STATE OF NEW HAMPSHIRE,
Merrimack, ss:

November 30, 1846, personally appearing the above named Cyril C. Tyler and Sarah P. Tyler, acknowledged the foregoing instrument, by them subscribed, to be their voluntary act and deed.

Before me, JOSEPH STANWOOD,
Justice peace.

Copy annexed to answers of G. N. Black.

J. S. ROWE, *Com'r*.

Obligation from Tyler to Black.—Obligation—Cyril C. Tyler to G. N. Black.

Whereas I have this day deed to G. N. Black, of Ellsworth, county of Hancock, and State of Maine, a certain tract or parcel of land, situated in township No. 33, in the county of Hancock, and State of Maine, for the sum of one hundred dollars, it is hereby understood and agreed, on my part, that if the said G. N. Black, in order to obtain an undisputed title, is under the necessity and obliged to pay to Thomas A. Goddard, administrator on the estate of John J. Putnam, the sum of fifty dollars or more, I, in that case agree to refund to the said G. N. Black the sum of fifty dollars and no more. A receipt from Goddard with an explanation to be sufficient evidence of the payment.

CYRIL C. TYLER.

Witness—JOSEPH STANWOOD.

Hopkinton, Nov. 30, 1846, copy annexed to answers of G. N. Black.

J. S. ROWE, *Com'r.*

And at the same October term, A. D. eighteen hundred and forty-seven, the time for filing the complainant's replication or exceptions to said answer is, by agreement, extended thirty days. And at an adjournment of said term, holden on the sixth day of December, of the same year, the following replication is filed, to wit:

Plaintiff's' replication.

CIRCUIT COURT OF THE UNITED STATES,

Maine district, ss:

CYRIL C. TYLER and UX. vs. GEORGE N. BLACK. } In equity.

The replication of Cyril C. Tyler and Sarah P. Tyler, complainants, to the answer of George N. Black, defendant.

These repliants, saving and reserving to themselves all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies of the answer of the said defendant, for replication thereunto says, that they do and will aver, maintain, and prove their said bill to be true, certain, and sufficient in the law to be answered unto by the said defendant; and that the answer is very uncertain, evasive, and insufficient in the law to be replied unto by the repliants; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things these repliants are ready to aver, maintain, and prove as this honorable court shall direct; and humbly pray as in and by their said bill they have already prayed.

FRED. HOBBS, *Sol'r.*

FRED. HOBBS, *Counsel.*

Whereupon said cause is continued to the next term, and thence from term to term to September term, A. D. eighteen hundred and forty-nine, when the following depositions, (the same having been taken by commissioners agreed upon by the parties,) are filed, to wit:

CIRCUIT COURT OF THE UNITED STATES,
District of Maine, ss:

CYRIL C. TYLER and Wife
vs.
GEO. N. BLACK.
} In equity.

Plaintiffs' interrogatories to Joseph and L. H. P. Stanwood.

Interrogatories to be propounded to Joseph Stanwood and Louisa H. P. Stanwood, witnesses to be produced, sworn, and examined in behalf of the complainants in said cause.

First. What is your age and occupation, and where do you reside; do you know the parties, C. C. Tyler and Sarah P. Tyler, and George N. Black, or either of them; how long have you known them?

Second. Were you or not at the public house in said Hopkinton, in Nov., 1846, when said Black came there? If so, state what inquiries, if any, said Black made concerning his, Dr. Tyler's, character and property, before said Tyler came into the tavern.

Third. Were you or not present at the commencement of the interview between Tyler and Black, or afterwards? If so, state what was the subject of their conversation; how and by whom it was introduced; and all that was said by the parties; please to state it in the order of time as nearly as you can.

Fourth. Did or not said Black inquire of said Tyler if his wife was a daughter of Dr. Aaron Putnam, of Charlestown, Mass., and whether they knew anything of a tract or parcel of land in Maine which belonged to her father, and what was said [by] Tyler's reply; did, or not, said Black represent said land to be situated in township No. 31, and refuse to tell the county where it was situated?

Fifth. Did or not said Black represent to said Tyler that there was no deed on record of said Putnam's title, but that he held the same by virtue of a lottery ticket, which could be transferred like a bank bill? State all that he said, if anything, about there being no evidence on record of said Putnam's title, and the uncertainty and difficulty of said Tyler's establishing his title to said land.

Sixth. Was or not said Black frequently and particularly questioned by said Tyler as to the number of acres of the land in Maine, of which Dr. Putnam died seized; did he, or not, at first answer said questions evasively? State the questions and answers on this point, fully and particularly. How many acres did said Black at first say there were; how many did he finally say there were in the whole?

Seventh. Did or not said Black claim to have a lien on said land

for taxes paid by himself, and for how long paid, and how much; what per cent., if any, for interest thereon did he claim; what did he say, if anything, about having the land sold for non-payment of taxes; did or not said Black say that said Tyler would have to pay said taxes and interest, at all events, before he could avail himself of any title to the land?

Eighth. What did said Black represent to be the value of said land, per acre; at what price, per acre, did he represent another portion of the same tract to have been bought; what did said Black tell said Tyler was the reason of his purchasing his title; did he or not assign, as a reason, that some other person had appeared and claimed a large part of it; and that for that reason he thought best to buy the remainder? State all that he said about this.

Ninth. What was said Black's first offer to said Tyler for the deed of the whole of said land; did, or not, said Black profess to be liberal in making said offer, and did he, or not, represent the sum of fifty dollars to be the full value thereof?

Tenth. Did or not said Black represent to said Tyler, that he, Black, could obtain a title to said land by advertising and sale at auction? State all that was said on this point. What reason did said Black assign for not proceeding in that mode?

Eleventh. Did you prepare the deed for said Tyler and his wife to sign? If so, please to state whether or not said Black gave you a description of said land; whether or not he referred to any memorandum or writing to aid you in preparing the deed. State fully and particularly all that was done and said by said Black while you were drawing the deed in reference to the township and county where the same was situated.

Twelfth. "Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer."

FRED. HOBBS,
Sol. for complainants.

Bangor, Jan. 31, 1848.

UNITED STATES CIRCUIT COURT,
Maine district, ss:

CYRIL C. TYLER and Wife
vs.
G. N. BLACK.
} In equity.

Plaintiffs' interrogatories to H. M. Fuller and B. Perkins.

Interrogatories to be propounded to Henry M. Fuller and Brinsley Perkins, witnesses to be produced, sworn, and examined in behalf of the complainants in said cause.

First. What is your age, place of residence and occupation; what was your occupation in Nov., 1846; do you know C. C. Tyler and his wife, of Hopkinton, and George N. Black, of Ellsworth, Maine; how long have you known them, or either of them?

Second. Were you or not in company with said Black on the road from Lebanon to Hopkinton, or at your house in Hopkinton, before he saw said Tyler, or his wife? If yea, state fully and particularly all the inquiries made by said Black of you, concerning the property and character of said Tyler, and the extent of his practice.

Third. If you have not already answered, please state whether said Black did or not ask you if said Tyler was a man of property; whether he loved money, and would be likely to accept of any offer, rather than run any risk of obtaining an uncertain amount; and whether said Tyler was a speculating man? Please to state particularly.

Fourth. Did he or not represent to you that he had been to Vermont, to see said Tyler and his wife, supposing they lived there? State fully what he said on this subject.

Fifth. Was or not said Black in a great hurry before his arrival at Hopkinton? Did you or not come in advance of the regular mail from Lebanon?

Sixth. "Do you know, or can you set forth, any other matter or thing of benefit or advantage to the parties at issue in this cause, or to either of them, or that may be material to the subject of this your examination, or the matter in question in this cause? If yea, set forth the same fully and at large in your answer."

FREDERICK HOBBS,
Solicitor for defendants.

Bangor, January 31, 1848.

Defendant's objections to plaintiffs' interrogatories.

The said defendant objects to the second, third, and fourth interrogatories for irrelevancy.

JAMES S. ROWE,
Solicitor for defendant.

UNITED STATES' CIRCUIT COURT,
Maine district, ss:

CYRIL C. TYLER AND WIFE
vs.
GEORGE N. BLACK.

Cross interrogatories to J. and H. L. P. Stanwood.

Cross interrogatories to Joseph Stanwood and Louisa H. P. Stanwood.

1. Did you make a memorandum of said conversations; do you testify from such memorandum or from memory; have you seen any such memorandum; if yea, when and by whom was it made?

2. Did you hear the whole of the conversation between the parties at the time, or but part of it?

Cross interrogatories to Joseph Stanwood.

Cross interrogatories to Joseph Stanwood.

1. Did not said Black, in said conversations, offer to communicate all the information he possessed in relation to said lot, if said Tyler would give him the price he asked; and did not said offer accompany his offer to purchase the title of the complainants?

2. Did you not accompany said Black to Concord immediately after the sale; and did you not, on the way there, say to him that you considered his offer to Tyler a very fair one, and that Tyler did right in selling, for he would never look up the claim if he had'nt; but that you, if you had been in Tyler's place, would have paid him (Black) what he asked, and got his information about the land; did you not say that, or something of that purport; if yea, were you not sincere in so saying?

3. Did not Black, in those conversations with Mr. Tyler, refuse to give him the information about the land unless paid for it; was it not Tyler's evident aim to get such information without paying for it; and were not Black's answers framed with the obvious intent to defeat that aim?

4. Did not Black tell Tyler that he had never been on the land, and was not acquainted with its quality or value?

5. Was not this what Black said, in substance, in relation to the lottery ticket and deed, to Putnam, namely, that he had examined the records, or had had them examined, and found no deed to Dr. Putnam, and supposed, therefore, that the transfer to him was by delivery of the ticket, which could be transferred like a bank bill?

JAMES S. ROWE,
Solicitor for defendant.

Cross interrogatories to H. M. Fuller and B. Perkins.

The defendant, not waiving any objection, proposes the following cross interrogatories to Henry M. Fuller and Brinsley Perkins:

1. Did not Black say that he had been to Fairfield to see the heirs of Dr. Putnam, supposing that they all lived there; are you positive that he said that he went there to see Tyler and his wife, supposing that they lived there; which expression did he use?

2. Did said Black pay you anything for setting him down at Hopkinton in advance of the mail; did he pay any one an extra price for forwarding him with extra speed; did he not, on the contrary, pay the stage agent at Montpelier his fare through to Concord, and take a ticket through, in the usual way; and did not that ticket carry him through without any additional payment?

JAMES S. ROWE,
Solicitor for defendant.

And now, before the taking of said testimony, the complainants' solicitor objects to the second cross interrogatory, as seeking declarations of Black and opinions of the witness.

FREDERICK HOBBS,
Solicitor for complainants.

DISTRICT OF MAINE, *ss:*

March 2, 1848.

The parties, waiving the provisions of rule 67, of equity practice, agree that honorable Matthew Harvey, judge of the district court of [the] United States for New Hampshire district, may take the testimony of said witnesses, as under a commission.

FREDERICK HOBBS,
Solicitor for complainants.
JAMES S. ROWE,
Solicitor for defendant.

Depositions of witnesses produced, examined, and sworn on the 29th day of March, 1848, at Hopkinton, in the State of New Hampshire, under an agreement of the parties, in a certain cause depending in the circuit court of the United States, for the district of Maine, and at issue between Cyril C. Tyler and wife, complainants, vs. George N. Black, defendant.

Joseph Stanwood's answers to plaintiffs' direct interrogatories.

Joseph Stanwood, of Hopkinton, in the State of New Hampshire, aged 42 years, being duly examined on the part of the complainants, cautioned, and sworn that the answers given by him to the interrogatories which shall be proposed to him shall be the whole truth, and nothing but the truth, doth depose and say as follows:

First. To the first interrogatory he saith:

I am forty-two years old; my occupation is a farmer and trader; I live in Hopkinton, N. H.; I know Cyril C. Tyler and Sarah P. Tyler, his wife, and have known them more than fifteen years; I never saw George N. Black till he came here, about sixteen months ago, and took a deed of Doct. Tyler.

Second. To the second interrogatory he saith:

I was present at the public house when Mr. Black came here and took the deed, as before stated; my father-in-law and I were then keeping a public house; Mr. Black came in and inquired for Doct. Tyler; what sort of a man was he, and what were his circumstances as to property; I told him he was a physician, doing a tolerable good share of business; had his house and other buildings clear of debt, as I supposed.

Third. To the third interrogatory he saith:

I was not present at the commencement of the interview betwixt Tyler and Black; I left the room soon after Tyler came in; after they

had been together perhaps an hour, Tyler came out and told, in substance, that Black and he had been talking about some land in Maine; I went into the room with them; Black said there was a tract of land in Maine, and he could find no person that had any claim to it, unless it belonged to the heirs of Doct. Putnam; Black said he would give Tyler fifty dollars for a deed of the land from Tyler and his wife; or, if they would give him fifty dollars, he would tell them all he knew about the land; they came to no agreement at that time, but separated late at night; the next morning Black said he had concluded to make Tyler another offer for the land; he would give him one hundred dollars for a deed; I went to Doct. Tyler, told him what Black had offered, and he came in and concluded to take it.

Fourth. To the fourth interrogatory he saith:

The inquiries in the first part of this interrogatory were not made, if made at all, in my presence, but I inferred from their conversation that these questions had been settled before I came into the room; Black represented that the land was situated in a township, and gave the number of the township, but refused to name the county; when the deed was made, he directed me to insert a different number from that he had represented in the previous conversation; he either represented that the township in which the land was situated was thirty-one, and directed me to insert thirty-three in the deed, or represented thirty-three as the number of the township, and had thirty-one inserted in the deed, but which I cannot now recollect.

Fifth. To the fifth interrogatory he saith:

That Black said the land was holden, if held at all, by virtue of a lottery ticket, the form of which he attempted to describe; was made of pasteboard, or thick paper, as I understood; he said he had lately seen one in the hands of a Mr. Webster, I think, but I am not certain about the name; Black said he had made many inquiries about the title to this land; he had been to Springfield, Mass., and other places, for this purpose, but could find no record of the title any where; and he did not suppose there was any deed of this land on record, but that the whole claim to it depended upon the lottery ticket, and that alone.

Sixth. To the sixth interrogatory he saith:

When Tyler inquired how many acres Doct. Putnam owned, Black answered about five hundred.

Seventh. To the seventh interrogatory he saith:

Black said he had a claim on this land for the taxes he had paid on it; he said he had paid taxes on this land twenty-eight or twenty-nine years; think he said twenty-nine years; the amount I do not recollect, if he stated it; he said Tyler must pay him the amount of these taxes, and twenty-five per cent. interest, at all events, before he could avail himself of any title to this land, and this he required in addition to the fifty dollars mentioned in my answer to the third interrogatory; he said he would have the land sold for taxes, and get a good title.

Eighth. To the eighth interrogatory he saith:

I do not recollect that Black represented what was the value of this

particular piece of land, but he said a part of the same tract had been sold for twelve and a half cents per acre, and was still undivided; so that, if Tyler should ever be able to find and get possession of the land, he would find himself an owner in common with others, and it would become necessary for him to get a division before he could do anything with the land; he said a road had been, or would be, laid out through this township, which would much increase the taxes; he assigned as a reason why he wished to purchase the land, that another person had appeared and claimed a large part of it, and he thought it was best for him to be looking out for the remainder; and he had traced it back to Dr. Putnam, and had not found that he had parted with his title; till this claim was made to a part of the land, he had supposed he was in quiet possession, and that the claimants were all dead.

Ninth. To the ninth interrogatory he saith:

Black's first offer was fifty dollars, and he did not vary from this till the morning, when he offered one hundred dollars; whether he professed to be liberal or not I do not recollect, but said it was all he would give till the morning.

Tenth. To the tenth interrogatory he saith:

Black said he could have had the land sold for taxes, and obtained a title that way; I asked him why he had not done so; he said he was afraid other speculators would come in and trouble him, or get the land; I think he mentioned Norcross.

Eleventh. To the eleventh interrogatory he saith:

I made the deed for Tyler and his wife to sign; when I commenced writing the deed, Black took from his pocket a memorandum, and dictated to me a description of the land, and caused me to use words different from those I should have used; he then, for the first time, gave the name of the county in which the land is situated, and the number of the township, which was different from the number he had before given, as I have before stated in my answer to the fourth interrogatory; and he directed me to put in a much larger sum for the consideration in the deed than he gave Tyler, which I did.

Twelfth. To the twelfth interrogatory he saith:

That nothing further now occurs to him which may be material in the trial of this cause to either party.

Jos. Stanwood's answers to defendant's cross interrogatories.

Cross interrogatories for Joseph & L. N. P. Stanwood.

First. To the first cross interrogatory he saith:

I made a memorandum some time last summer; I have seen it recently, but now testify from memory.

Second. To the second cross interrogatory he saith:

I did not hear the first of the conversation between the parties; I was not in the room at first, but after I went into the room I heard, as I suppose, the substance of the conversation in the evening; in the morning I conveyed the new offer to Tyler, and was present mostly with them till the deed was made, and heard what was said.

had been together perhaps an hour, Tyler came out and told, in substance, that Black and he had been talking about some land in Maine; I went into the room with them; Black said there was a tract of land in Maine, and he could find no person that had any claim to it, unless it belonged to the heirs of Doct. Putnam; Black said he would give Tyler fifty dollars for a deed of the land from Tyler and his wife; or, if they would give him fifty dollars, he would tell them all he knew about the land; they came to no agreement at that time, but separated late at night; the next morning Black said he had concluded to make Tyler another offer for the land; he would give him one hundred dollars for a deed; I went to Doct. Tyler, told him what Black had offered, and he came in and concluded to take it.

Fourth. To the fourth interrogatory he saith:

The inquiries in the first part of this interrogatory were not made, if made at all, in my presence, but I inferred from their conversation that these questions had been settled before I came into the room; Black represented that the land was situated in a township, and gave the number of the township, but refused to name the county; when the deed was made, he directed me to insert a different number from that he had represented in the previous conversation; he either represented that the township in which the land was situated was thirty-one, and directed me to insert thirty-three in the deed, or represented thirty-three as the number of the township, and had thirty-one inserted in the deed, but which I cannot now recollect.

Fifth. To the fifth interrogatory he saith:

That Black said the land was holden, if held at all, by virtue of a lottery ticket, the form of which he attempted to describe; was made of pasteboard, or thick paper, as I understood; he said he had lately seen one in the hands of a Mr. Webster, I think, but I am not certain about the name; Black said he had made many inquiries about the title to this land; he had been to Springfield, Mass., and other places, for this purpose, but could find no record of the title any where; and he did not suppose there was any deed of this land on record, but that the whole claim to it depended upon the lottery ticket, and that alone.

Sixth. To the sixth interrogatory he saith:

When Tyler inquired how many acres Doct. Putnam owned, Black answered about five hundred.

Seventh. To the seventh interrogatory he saith:

Black said he had a claim on this land for the taxes he had paid on it; he said he had paid taxes on this land twenty-eight or twenty-nine years; think he said twenty-nine years; the amount I do not recollect, if he stated it; he said Tyler must pay him the amount of these taxes, and twenty-five per cent. interest, at all events, before he could avail himself of any title to this land, and this he required in addition to the fifty dollars mentioned in my answer to the third interrogatory; he said he would have the land sold for taxes, and get a good title.

Eighth. To the eighth interrogatory he saith:

I do not recollect that Black represented what was the value of this

particular piece of land, but he said a part of the same tract had been sold for twelve and a half cents per acre, and was still undivided; so that, if Tyler should ever be able to find and get possession of the land, he would find himself an owner in common with others, and it would become necessary for him to get a division before he could do anything with the land; he said a road had been, or would be, laid out through this township, which would much increase the taxes; he assigned as a reason why he wished to purchase the land, that another person had appeared and claimed a large part of it, and he thought it was best for him to be looking out for the remainder; and he had traced it back to Dr. Putnam, and had not found that he had parted with his title; till this claim was made to a part of the land, he had supposed he was in quiet possession, and that the claimants were all dead.

Ninth. To the ninth interrogatory he saith:

Black's first offer was fifty dollars, and he did not vary from this till the morning, when he offered one hundred dollars; whether he professed to be liberal or not I do not recollect, but said it was all he would give till the morning.

Tenth. To the tenth interrogatory he saith:

Black said he could have had the land sold for taxes, and obtained a title that way; I asked him why he had not done so; he said he was afraid other speculators would come in and trouble him, or get the land; I think he mentioned Norcross.

Eleventh. To the eleventh interrogatory he saith:

I made the deed for Tyler and his wife to sign; when I commenced writing the deed, Black took from his pocket a memorandum, and dictated to me a description of the land, and caused me to use words different from those I should have used; he then, for the first time, gave the name of the county in which the land is situated, and the number of the township, which was different from the number he had before given, as I have before stated in my answer to the fourth interrogatory; and he directed me to put in a much larger sum for the consideration in the deed than he gave Tyler, which I did.

Twelfth. To the twelfth interrogatory he saith:

That nothing further now occurs to him which may be material in the trial of this cause to either party.

Jos. Stanwood's answers to defendant's cross interrogatories.

Cross interrogatories for Joseph & L. N. P. Stanwood.

First. To the first cross interrogatory he saith:

I made a memorandum some time last summer; I have seen it recently, but now testify from memory.

Second. To the second cross interrogatory he saith:

I did not hear the first of the conversation between the parties; I was not in the room at first, but after I went into the room I heard, as I suppose, the substance of the conversation in the evening; in the morning I conveyed the new offer to Tyler, and was present mostly with them till the deed was made, and heard what was said.

Jos. Stanwood's answers to def'ts cross interrog.

Cross interrogatories for Joseph Stanwood.

First. To the first cross interrogatory he saith:

Black offered fifty dollar for the land, or to communicate to Tyler all he knew about it for fifty dollars, and what he had paid out for taxes and the interest; but which offer was made first I cannot determine.

Second. To the second cross interrogatory he saith:

I answer this interrogatory in the affirmative, supposing, as I then did, that all Black's representations to Tyler were correct and true, and as Tyler was not inclined to enter into speculations.

Third. To the third cross interrogatory he saith:

Black proposed to give Tyler the information if paid for it, and not otherwise; but I cannot say that I saw anything in Tyler's conduct which led me to suppose that he wished to obtain any information improperly or unfairly; nor did it occur to me that Black was guarding against such a design.

Fourth. To the fourth cross interrogatory he saith:

I think Black said he had never been on the land; but whether he said he was acquainted with its quality or value or not, I cannot say.

Fifth. To the fifth cross interrogatory he saith:

He is not able to give any account of Black's representations in reference to the lottery ticket and Putnam's title, materially different from what is contained in his answers to the fifth and eighth direct interrogatories.

JOSEPH STANWOOD.

The above taken and reduced to writing by me, subscribed and sworn to by the deponent, this 29th day of March, 1848, before me.

MATTHEW HARVEY,
Dist. judge, N. H. district.

Louisa A. P. Stanwood's answers to plaintiffs' interrogatories.

Louisa A. P. Stanwood, of Hopkinton, in the State of New Hampshire, aged 40 years, being duly examined on the part of the complainants, cautioned, and sworn, that the answers given by her to the interrogatories which shall be proposed to her, shall be the whole truth, and nothing but the truth, doth depose and say as follows:

First. To the first interrogatory she saith:

I am forty years old; I reside in Hopkinton, N. H., and am the wife of Joseph Stanwood; I know Cyril C. Tyler and Sarah P. Tyler, his wife, and have known them more than fifteen years; I never saw George N. Black till he came to Hopkinton, as I think, in Nov., 1846.

Second. To the second interrogatory she saith:

I was present at the public house, but not present to hear such inquiries as are referred to in this interrogatory.

Third. To the third interrogatory she saith:

After Dr. Tyler had been in the bar-room a short time, he came into the room where I was, and alluded to a conversation he had had with Mr. Black about some land in Maine; when he returned to the bar-room I went into the bar, and while there I heard Black say, there was a piece of land in Maine for which he could find no owner, unless it belonged to Dr. Putnam's heirs, and he doubted whether they ever had any good title to the land.

Fourth. To the fourth interrogatory she saith:

That in answer to this interrogatory she heard nothing more than that Black said the township in which the land was situated was No. 31.

Fifth. To the fifth interrogatory she saith:

That Black doubted whether Putnam's heirs ever had any good title to the land, and this is all she can say in answer to this interrogatory.

Sixth. To the sixth interrogatory she saith:

That to this interrogatory she recollects nothing more than that Black said there was not over five hundred acres of the land, and he thought not over four hundred acres.

Seventh. To the seventh interrogatory she saith:

That Black said Tyler would have to pay the taxes at any rate before he could do any thing with the land, and he could go home and have the land sold for taxes and get a good title, and Tyler would never be the wiser for it.

Eighth. To the eighth interrogatory she saith:

Nothing.

Ninth. To the ninth interrogatory she saith:

Nothing.

Tenth. To the tenth interrogatory, she saith:

That for an answer, she will have reference to her answer to the seventh interrogatory, she recollects nothing more.

Eleventh. To the eleventh interrogatory she saith:

Nothing.

Twelfth. To the twelfth interrogatory she saith:

Nothing.

L. H. P. Stanwood's answers to defendant's cross interrogatories.

Cross interrogatories.

First. To the first cross interrogatory she saith:

That she has made no memorandum; has referred to none; but testifies wholly from memory.

Second. To the second cross interrogatory she saith:

She heard nothing till she went into the bar, and she presumes it was not the first of the conversation betwixt the parties.

LOUISA A. P. STANWOOD.

The foregoing was taken and reduced to writing by me, subscribed

and sworn to by the deponent, this 29th day of March, 1848, before me.

MATTHEW HARVEY,
Dist. judge, N. H. dist.

Brimsley Perkins' answers to plaintiffs' interrogatories.

Brimsley Perkins, of Hopkinton, in the State of New Hampshire, aged 69 years, being duly examined on the part of the complainants, cautioned, and sworn, that the answers given by him to the interrogatories which shall be proposed to him shall be the whole truth, and nothing but the truth, doth depose and say, as follows:

First. To the first interrogatory he saith:

I am sixty-nine years old; was keeping a public house in November, 1846; am a farmer now. I know Cyril C. Tyler and Sarah P. Tyler, his wife, and have known them more than fifteen years. I never saw George N. Black till he came to my house in November, 1846.

Second. To the second interrogatory he saith:

When Black came to my house he inquired for Doctor Tyler; he left, and went, as I supposed, to see him. When he returned he asked me if Tyler was a man of property? I told him he was not, though in comfortable circumstances. He asked me if he was in want of money? I told him I thought he was, as he had been building.

Third. To the third interrogatory he saith:

I can say no more in answer to this than I have said in answer to the second interrogatory.

Fourth. To the fourth interrogatory he saith:

I heard him say that he had been to Vermont for that purpose.

Fifth. To the fifth interrogatory he saith:

I know nothing.

Sixth. To the sixth interrogatory he saith:

I can state nothing further that I now recollect, except that Black passed himself here by another name at first; his real name was not given till the deed was written. He gave as a reason for this, that, if he did not make a bargain, he did not intend that any body should know he had been here.

Brimsley Perkins' answers to defendant's cross interrogatories.

Cross interrogatories.

First. To the first cross interrogatory he saith:

I can state no more in regard to this than I have stated in my answer to the fourth direct interrogatory.

Second. To the second cross interrogatory he saith:

I know nothing.

BRIMSLEY PERKINS.

The foregoing was taken and reduced to writing by me, subscribed, and sworn to by the deponent, this 31st day of March, 1848, before me.

MATTHEW HARVEY,
Dist. judge, N. H. dist.

Henry M. Fuller's answers to plaintiffs' direct interrogatories.

Henry M. Fuller, of Hopkinton, in the State of New Hampshire, aged 30 years, being duly examined on the part of the complainants, cautioned, and sworn, that the answers given by him to the interrogatories which shall be proposed to him, shall be the whole truth, and nothing but the truth, doth depose and say, as follows:

First. To the first interrogatory he saith:

I am thirty years old; I live in Hopkinton, N. H. In November, 1846, I was conductor on the Boston and Montreal express. I know Cyril C. Tyler, and have known him six or seven years; George N. Black I never knew till I found him at Lebanon, N. H., about sixteen months ago.

Second. To the second interrogatory he saith:

I found a gentleman at Lebanon, N. H., in November, 1846, who I have no doubt was Mr. Black, from what has since come to my knowledge. He said he had come to Lebanon from Vermont in the stage, but wishing to be in Boston as soon as possible, and finding that the stage would stop over Sunday at Lebanon, he wished to take a seat with me in the express, which he did. On the way to Hopkinton, he asked me if I knew Dr. Tyler, and where he lived? I told him I did; he lived in Hopkinton; we should pass very near him. He asked me what I supposed he was worth? I told him, but it was a mere conjecture. He put various questions, and asked what sort of a man he was; was he ready to make bargains, and to enter into speculations? These inquiries were repeated, till I suppose he had a pretty good knowledge of the doctor before he saw him, so far at least as I was able to give it. He asked me who the doctor married? This he asked several times, as I was not positive. He said he must stop at Hopkinton, and see the doctor on business, if he knew any thing about it; and he could tell in a few minutes after seeing the doctor, whether he knew any thing about it. If he could do the business as he wished, he should stop; if he could not, he should like to go on with me to Concord that night. After seeing the doctor he concluded to stop there, and I went on.

Third. To the third interrogatory he saith:

Mr. Black asked me, in his inquiries about the doctor, whether he loved money; whether he would be likely to run any great risk for the prospect of obtaining any uncertain amount? I told him I thought he was rather a careful man.

Fourth. To the fourth interrogatory he saith:

I answer this interrogatory in the affirmative.

Fifth. To the fifth interrogatory he saith:

Mr. Black came with me from Lebanon in the express, as I have before stated, and in advance of the mail stage, which remained at Lebanon over Sunday.

Sixth. To the sixth interrogatory he saith:

I recollect nothing further which may be material to either party.

Henry M. Fuller's answers to defendant's cross interrogatories.

Cross interrogatories.

First. To the first cross interrogatory he saith: I must refer to my answer to the fourth direct interrogatory for my answer to this. The name of Putnam was not mentioned in our conversation, to my recollection. Black said if he had known that Tyler lived in Hopkinton, it would have saved him a long journey, much time, and expense.

Second. To the second cross interrogatory he saith: Mr. Black rode with me in the express from Lebanon to Hopkinton, and he paid me what I required of him; how much I do not now recollect. The express was an entirely different and separate concern from the stage establishment. They had no common interest. I heard nothing, knew nothing, about a ticket.

HENRY M. FULLER.

The foregoing was taken and reduced to writing by me, subscribed and sworn to by the deponent, this 29th day of March, 1848.

Before me—

MATTHEW HARVEY,
Dist. Judge, N. H. Dist.

CIRCUIT COURT UNITED STATES,
District of Maine, ss:

CYRIL C. TYLER and Wife
vs.
GEORGE N. BLACK.
} In equity.

Plaintiffs' direct interrogatories to Ed'd F. Putnam, Albert S. Soule, Elizabeth P. Soule, and Phebe Hendrick.

Interrogatories to be propounded to Edward F. Putman, Albert G. Soule, Elizabeth P. Soule, and Phebe Hendrick, witnesses to be produced on behalf of the complainants in said cause.

First. What is your age; where do you reside; do you know the parties, C. C. Tyler and Sarah P. Tyler, his wife, and George N. Black, or either of them; if so, how long have you known them, or either of them?

Second. Did you know Dr. Aaron Putnam, of Charlestown, Massachusetts, during his lifetime? If so, or otherwise, state your relationship to said Aaron Putnam, from your own knowledge, or as you have always heard it from your deceased father or mother, or other deceased member of your family.

Third. How many children had your grandfather, Dr. Putnam, living at the time of his decease? Please to name them. Did either of said sons die without issue; if so, which of them; who was your father, and when did he die; were or not your father and the complainant, Sarah P. Tyler, the heirs-at-law of your grandfather, or of

your uncle or uncles, deceased? Your father being dead, please to state who now inherits the real estate of which your grandfather or uncles died seized, and in what proportion. Are or not said Sarah P. Tyler and Cyril C. Tyler, the complainants, seized in her right of an undivided half thereof; if not, how otherwise?

Fourth. Did or not said Black introduce himself to you, or to A. G. Soule and wife, and Edward F. Putnam, at Fairfield in November, 1846; if so, for what purpose; were you or not present at such introduction and the conversation which followed?

Fifth. State if you had, or were present at, more than one interview with said Black on the subject of lands in Maine; if so, where, and who was present at each interview?

Sixth. State fully and particularly all that said Black stated, and in the order of time, as nearly as you can, at the first interview. How did he introduce the subject; where did he say said land was situated; in what township, in what county in Maine; of how many acres did he say the whole land in Maine consisted, of which said Aaron Putnam died seized; what did he say was its value; what reasons did he give for so low an estimate of it; did he state any thing, and what, in relation to any encumbrances upon it for taxes paid, or assessed and to be levied, for making a public road through the township; did he or not claim to have a lien on said land for taxes paid by himself, and for how long, and how much; what did he say was his purpose in purchasing it; did he or not represent to you that the complainant, Sarah P. Tyler, was dead without heirs, and that you and some others were sole heirs; did he or not tell you he had searched the registry of deeds at various places, and particularly at some places in Maine, for your grandfather's title; if so, where; did he speak of having examined the registry of deeds for Hancock county, and at Ellsworth; did or not said Black manifest some impatience to have the title transferred to him immediately? State all that he said and did to induce an immediate transfer of the land to himself, at a small price.

Seventh. State fully and particularly all that said Black represented in regard to said land and encumbrances on it, at the second and third interviews with him; and if they differed from his first statements, wherein did they so differ; did you or not question said Black, or hear him questioned by another person, as to the several particulars inquired about; if so, state the questions and the answers of Black, in the order in which the questions were put and the answers made, as nearly as you can recollect the same; where did said Black tell you that he resided; and did you know, at that time, that he lived at Ellsworth, within thirty-five miles of the land, and in the town where the title deed of said Putnam was actually recorded?

Eighth. If you have not already done so, state how much said Black offered to give you for the land, and why you did not sell the same to him. Did you or not write said Tyler concerning your interview with Black, and how soon after said Black left Fairfield?

Ninth. Have you examined said land since your interview with said

Black; if so, please state when and how you learnt its true locality; who accompanied you in your examination; how long did you examine it; what was the character of the soil and timber, and its value per acre, as nearly as you can judge?

Tenth. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

FRED. HOBBS,
Solicitor for complainants.

Bangor, Jan. 31, 1848.

Defendant's objections to plaintiffs' direct interrogatories to Putnam and others.

The defendant objects to the fourth, fifth, sixth, and seventh interrogatories, because they inquire of irrelevant matters; and particularly to those parts that tend to draw out statements of the representations made and inducements held out by the defendant to any of said witnesses, or of any feeling manifested by said defendant, or of any knowledge, or want of knowledge, on the part of any of said witnesses; and to the eighth, so far as it seeks the motive which influenced the witnesses in refusing the offer made by the defendant.

JAMES S. ROWE,
Solicitor for defendant.

Not waiving the foregoing objections, the defendant proposes the following cross interrogatories to each of the witnesses hereinbefore named:

Defendant's cross interrogatories to Putnam and others.

1. If you have undertaken to repeat any conversations of said Black, did you so repeat from memory, or from a memorandum? If from the latter, please state when, and by whom, it was made, and when you first saw it.

2. Have you ever seen a writing purporting to be a statement of any such conversation? If yea, when, where, by whom was it made, and by whom shown to you?

3. Did you not understand from said Black that he had never heard of Mrs. Tyler till he was informed, at Fairfield, in some of these conversations, that such a person was one of the heirs of Dr. Putnam, and probably was still living?

4. If you have stated that you have examined said lot, please state particularly where you went on to it, what directions and distances you travelled on it, what lines you traced or saw, how they were marked, how you knew whether you were on or off the lot; and, if you have undertaken to estimate its value, please state how you arrived at that estimate, giving in detail every item that you reckoned in making up the aggregate; and state what pursuits of your past life

have furnished you with the knowledge requisite to a correct judgment of the value of timber lands in Maine.

JAMES S. ROWE,
Solicitor for defendant.

DISTRICT OF MAINE, *ss:*

March 2, 1848, the parties, waiving the provision of rule 67 of practice in equity, agree that H. R. Beardsley, esq., or Orlando Stevens, esq., of St. Albans, Vermont, may take the testimony of said witnesses, as under a commission.

FRED. HOBBS, *Solicitor for complainant.*
JAS. S. ROWE, *Solicitor for defendant.*

UNITED STATES CIRCUIT COURT,
Maine district, ss:

CYRIL C. TYLER and Wife
vs.
GEORGE N. BLACK. } In equity.

Edward F. Putnam, of Fairfield, in the county of Franklin, and State of Vermont, having been duly sworn according to law, deposes, testifies, and says, to the interrogatories hereto attached, as follows, namely:

Edward Putnam's answers to plaintiff's' direct interrogatories.

To the first interrogatory says: That his age is twenty-nine years, and resides in Fairfield, Franklin county, Vermont. I have known Mrs. Tyler, the wife of C. C. Tyler, ever since my remembrance; and have known Dr. C. C. Tyler personally about two years, and by correspondence for several years before; both the said Dr. C. C. Tyler and his said wife, Sarah P. Tyler, reside in Hopkinton, New Hampshire. I first became acquainted with the defendant, George N. Black, one year ago last November at said Fairfield.

To the second interrogatory says: That I did not personally know Dr. Aaron Putnam, mentioned in this interrogatory, during his life. I have always heard from my mother, and other family connexions, that the said Dr. Aaron Putnam was my grandfather. My father and mother are both dead.

To the third interrogatory says: I have always understood that my grandfather had eight children, four of whom were living at the time of his decease. The names of those living at his decease were John J. Putnam, Fitch P. Putnam, Charles Putnam, and Sarah Putnam. Fitch P. was my father, and Sarah is the wife of Dr. C. C. Tyler, one of the complainants. All the sons of my said grandfather, except my father, died without issue. My father, the said Fitch P. Putnam, died July 16, 1820.

My father and the complainant, Sarah, the wife of Cyril C. Tyler,

were the heirs-at-law of my grandfather, the said Dr. Putnam, and of my said deceased uncles. Upon the decease of my father, the real estate, of which my grandfather and uncles died seized, descended to Mrs. C. C. Tyler, the complainant, to myself, and to my sister Elizabeth P. Putnam, now the wife of Albert G. Soule, of said Fairfield, as the heirs-at-law, in the proportion of one-half to the said Sarah Tyler, the said wife of the said Cyril C. Tyler, and the other half to myself and my said sister; all the other legal heirs being now dead.

To the fourth interrogatory says: That the defendant, the said George N. Black, introduced himself to myself, my sister, and her husband, the said Albert G. Soule, in November, 1846, at said Fairfield, Vermont, and inquired of us if we were the heirs of Dr. Aaron Putnam, of Charlestown, Massachusetts, saying, if we were, that we had an interest in some lands in Maine, and he wished to purchase it.

To the fifth interrogatory says: I was present at two interviews with said Black on the subject of the Maine lands—the first was at the dwelling-house of the said Albert G. Soule, in the presence of myself, my sister, the said Mrs. Soule, and of a Miss Phebe Hendrick; the second was at the store of the said Albert G. Soule, and in his counting-room; at which said Black, the said Albert G., and myself, were the only persons present.

To the sixth interrogatory says: That at the interview first above mentioned the said Black stated that he came for the purpose of purchasing the land; that he did not know any thing about the amount of the land. I observed to him, I ought to know something about the number of acres in order to be able to fix a price. Said Black then pretended that he did know the number of acres, and said there were 400 or 500 acres; that he was entirely ignorant of the value and quality of the land, whether bog, fen, or meadow; that it was situated somewhere in Washington county, on Union river, 32, Lottery block; that he had paid taxes on it for 27 years; that there was about to be opened through it a public road, and would be sold for the taxes; that said Black, being further pressed on the subject of the quality, admitted that he had heard that it might be worth not to exceed two hundred dollars, and that his only object in offering to buy it was, that he might control it, as he owned other lands near it; he said he had searched for information concerning my grandfather's interest in the land in many places; Charlestown, Boston, registry office at Machias; said that my aunt, Sarah Tyler, was dead, leaving no heirs, and that my sister Elizabeth and myself were the only heirs, and all that he wanted was a quit-claim deed to put him in possession. He was extremely urgent to have the deed made without delay; that it would be necessary to have it forthwith, in order to meet the change in its relations to the projected road; he said the taxes he had paid on the land were two hundred dollars or over; that he claimed a lien upon the land on account of it; said the land could not be worth but very little, as large quantities near it had been sold for one shilling per acre. He further said that the road would cost several thousand dollars, and this land would have

to bear its proportion of the expense. He pretended that he had paid all the taxes assessed upon the land, in order to prevent its being sold, and thus lost. I asked him how he came to pay the taxes; what was his motive; what interest he had in so doing. The only answer he made was, that he owned lands joining. He was very much embarrassed during the interview; was very impatient to have the trade completed at once, or else to have the amount which he had paid for taxes on the land refunded.

The above is the substance of the interview with Black at the house, according to my best recollection. The next interview was in Mr. Albert G. Soule's counting-room, at his store. Black there stated in the first place to said Soule, what he had before stated at the house, with some variation, after which Mr. Soule began to question him in relation to the land. Soule asked him where the land was. Black replied in Maine; did not know where the deed was, nor where recorded. On being further pressed by Mr. Soule, he said the deed was recorded in Machias; that he had never seen it, but had been so informed. Mr. Soule asked him in what county the land was. Black replied, in Washington county, on Union river.

Said Soule again inquired how he knew the fact. Black replied, a friend had informed him. Said Soule asked him if the same friend did not also inform him of the number of acres and value. Black replied, that he did not. He said he resided in Boston; had a lumber wharf on Front street. He repeated that my sister and myself were the only heirs living. That Mrs. Tyler was dead. On my intimating a doubt of that, Black said he should go that way, and see her if living. He repeated that the land was of very little value; offered to pay one hundred dollars, and afterwards two hundred dollars, for the land. During this interview said Black was very much embarrassed by the questions of Mr. Soule to him, giving contradictory answers. We did not conclude to sell to Mr. Black. We informed him we were not satisfied with the history of the matter which he had given, and should decline to sell until we had made examination into the case. Mr. Black insisted throughout that the land was but of little or no value; that it was worth more to him than any one else, as he had lands joining.

To the seventh interrogatory the witness answers nothing in addition to his answers to the sixth interrogatory, except that the witness did not know that said Black resided at Ellsworth, but supposed he resided in Boston, from his own statement.

To the eighth interrogatory witness says: That we did not sell to Black because, from his manner and appearance, and from what he said about the land, we doubted the truth of what he said.

After Mr. Black left Fairfield, he having affirmed so positively the death of Mrs. Tyler, I, on the 2d of December, 1846, addressed a note by mail to the postmaster of Hopkinton, N. H., inquiring about the fact of Mrs. Tyler's death. I soon after received a letter from the

postmaster saying Mrs. Tyler was still living. Within a few days after the receipt of this letter I wrote to Mr. Tyler, giving an account, to some extent, of our interview with Mr. Black. I cannot state the date of my letter to Mr. Tyler, but think it must have been as late as the 8th or 10th of December, and perhaps later.

To the 9th interrogatory witness says he knows nothing.

To the 10th interrogatory witness says: He does not now recollect any thing in addition to what he has already stated.

Examination on the cross interrogatory.

Ed. F. Putnam's answer to defendant's cross interrogatories.

The witness, as to the first interrogatory, and the matters and things therein inquired after, deposes and says: That I have repeated the conversation with Black from memory, and from a memorandum, too, made by me the same evening after the conversations, and a part was noted down at the time of the conversations by me.

To the 2d interrogatory the witness says: That he has not seen any memorandum or writing purporting to be a statement of such conversation, except the one made by himself, as stated in his answer to the first cross interrogatory.

To the 3d cross interrogatory says: That Mr. Black stated twice, if not more, that Mrs. Tyler was dead, and that she left no heirs. He never intimated, in either conversation, that he had never heard of Mrs. Tyler, nor did he intimate that he was at all ignorant that she was one of the heirs of my grandfather.

To the 4th interrogatory witness says: He can state nothing, as he is not acquainted with the premises. EDWARD F. PUTNAM.

STATE OF VERMONT,
Franklin county, ss:

March 16th, 1848, at Fairfield, then personally appeared before me, the above named Edward F. Putnam, the said deponent, and, after being first duly sworn according to law, gave his testimony as contained in the foregoing deposition, in answer to the several interrogatories hereto annexed, which were severally propounded by me to him, which testimony was reduced to writing by me, and was subscribed by the deponent in my presence.

H. R. BEARDSLEY,
Commissioner.

March 16, 1848, the foregoing deposition of Edward F. Putnam was taken by me, for the complainants, in a case in equity, wherein Cyril C. Tyler and wife are complainants, and George N. Black is defendant; which said deposition is to be used in the trial of said case, in the United States circuit court, for the district of Maine, next to be holden at Portland, on the first day of May, 1848.

H. R. BEARDSLEY,
Commissioner.

CIRCUIT COURT, U. S.
Maine district, ss:

CYRIL C. TYLER and WIFE
vs.
GEO. N. BLACK.
} In equity.

Albert G. Soule, a witness, produced, sworn, and examined by and on the part and behalf of the orators in the above entitled cause, upon the interrogatories filed in this cause, deposes and testifies as follows, namely:

Albert G. Soule's answer to plaintiffs' direct interrog.

To the first interrogatory he says:

That he is thirty-six years of age, and resides in Fairfield, Franklin county, Vermont; that he is acquainted with the parties, the said Tyler and his wife, for one year, and with the said George N. Black since Nov., 1846.

To the second interrogatory witness says:

He knows nothing, but has heard of Dr. Aaron Putnam, of Charlestown, Mass.

To the third interrogatory the witness says:

He has no knowledge of the matters inquired after by said interrogatory, except that he is the husband of Elizabeth P. Putnam, the daughter of Fitch P. Putnam, now deceased. I understand the said Fitch P. and the said Sarah P. Tyler, the complainant, to have been the heirs of my wife's grandfather, the said Doctor Putnam.

To the fourth interrogatory witness says:

That in Nov., 1846, Mr. Edward F. Putnam, my brother-in-law, came to my store, and introduced to me a man by the name of Black; Black said he had come to purchase some land in Maine.

To the fifth interrogatory witness says:

That he had an interview with said Black at his store, in the counting-room, and that the said Edward F. Putnam was present.

To the sixth interrogatory witness says:

That he had but one interview with the said Black, and that was at his counting-room, in presence of Rev. Edward F. Putnam, witness's brother-in-law. Said Black came into the store with said Edward F. After we went into the counting-room said Edward F. requested said Black to repeat the conversation he and Black had had at witness's house just before, which said Black undertook to do. He said he had ascertained that the said Edward F., and my wife, Elizabeth P., were heirs to a quantity of land in Maine, which came by the way of their grandfather, Dr. Putnam, and that he had come to get a conveyance of it; that he had paid the taxes on said land for 27 years, and he wanted either that they should convey to him their interest, or refund to him the amount which he had paid for taxes. Witness asked Black what amount he had paid for taxes; he replied he did not know, but thought two hundred dollars; witness asked for his account of

taxes paid; Black said he had not got it with him; witness questioned him about the quantity and value of the land; Black said he did not know the quantity; that there was probably two or three hundred acres, and that the value was merely nominal; that it was not worth much; that a part of the same block had been sold for a York shilling per acre; witness asked Black in what part of Maine the land was; he replied in the south part; witness asked in what county; he replied in Washington county; witness inquired where the deed or record of the deed was; Black replied he did not know; he had searched every where, in Charlestown, Boston, and Springfield, but could find no papers relating to the said land; witness asked if the land was located in Washington county, if the record of the title ought not to be there also; Black replied he supposed so; witness asked what town was the shire of Washington county; Black replied Machias; witness suggested that the record of the title would probably be found at the registry office at Machias; Black replied he supposed so; witness asked said Black how he knew there was any such land or title in Washington county; Black replied a friend told him so; witness asked Black if his friend did not also inform him of the quantity and value of the land; Black replied he did not, that he knew nothing about it; witness asked if there was not valuable timber on the land; Black replied he did not know, but was satisfied it was but of little value; but as he owned other lands adjoining, he should like to get a title to it, and thereupon offered one hundred dollars; witness remarked to Black that from the information Black had given he thought the heirs had better postpone any action in relation to the matter; that they could probably get all the requisite information in regard to it in the spring, as witness should visit Boston, and the other places mentioned by him; Black replied, that the heirs would never be able to get any further light on the subject than he had furnished; witness replied he thought the heirs had better wait awhile.

Black manifested much impatience, and wished to close the matter at once, and said, to end the business, he would give two hundred dollars for the land. Witness gave Black to understand that the heirs would not sell for that. In the course of the conversation, witness remarked to Black that Mrs. Tyler, of Hopkinton, New Hampshire, was also an heir. He replied that Mrs. Tyler was dead, and left no heirs; that the said Edward F. Putnam and witness's wife were the only heirs. In the course of the conversation, Black said there was a tax assessed on the lands of the Lottery block, No. 32, in which this land was, of three thousand dollars, to be raised and expended in the spring of 1847 in building a road through the land, and that this land would be sold on the tax unless the heirs sold to him. Witness replied there was time given for redemption in such cases, and that in the mean time witness would inform himself about the matter, and then do as he thought proper. Black said he resided in Boston. Black claimed to have a lien upon the land for the taxes which he said he had paid, and

insisted on having a conveyance of the land from the heirs, or the amount which he had paid for taxes refunded.

To the seventh interrogatory witness says:

That he has sufficiently answered it in his answer to the sixth interrogatory.

To the eighth interrogatory witness says:

The reason we did not sell to said Black was, that we did not believe his statements about the land; we believed there was more of it, and of more value than he represented.

To the ninth interrogatory witness says:

That, in April or May, 1847, witness, in company with Mr. George F. Foster, a surveyor, living at Amherst, Hancock county, and who had in February or March before been employed by witness and brother-in-law, Putnam, to survey the land, went on to the land and examined it a part of two days. Said Foster showed the lines to witness, and they went over a considerable part of the land. The tract contains about twelve hundred and twelve acres, of which Dr. Putnam died seized. The soil on some part of it is rather poor; on other parts, better. The tract is particularly valuable for the timber upon it. The timber is principally pine, spruce, cedar, and hemlock; some hard wood. I consider the timber alone on the land worth fifteen dollars per acre. The witness was first informed that the land was not in Washington county, as Black had stated, by Dr. Tyler; that, some time last winter, a year ago, I went and saw Dr. Tyler, and he said that Black told him the land was in Hancock county, No. 33 township, and that he and his wife deeded to Black according to the description and location which Black gave to make the deed by.

To the 10th interrogatory witness says:

That he can state nothing in addition to what he has already stated in answer to the other interrogatories.

Albert G. Soule's answer to defendant's cross interrogatory.

To the cross interrogatories the witness answers as follows, viz:

To first cross interrogatory:

That he has repeated the conversation which took place between him and Black, as well from memory as from a memorandum of it which he made not long after the conversation was had.

To second cross interrogatory says:

He has never examined or read any writing, purporting to be a statement of said conversation, except what witness himself made as above stated.

To the third interrogatory witness says:

That he did not understand from said Black that he had never heard of Mrs. Tyler till he was informed at Fairfield; but, on the contrary, understood from him that he had heard of her, and he declared that she was dead and left no children.

To the last cross interrogatory witness says:

He entered the land on the south side, about half a mile west of southeast corner; crossed the land several times from north to south; traced the south line, as shown by the surveyor who was with witness. Witness had no knowledge of the lines except what the surveyor told him. Witness estimated the value of the timber by calculating the average number of pine, cedar, spruce, and hemlock trees per acre, and their size, and calling the timber worth, standing, from $2.00 to $3.00 per thousand. Witness is a merchant, and has dealt some in lumber, and is somewhat acquainted with the market value of such timber, although he based his estimate in part upon information derived from others living in the neighborhood of the land, as to its value per thousand then standing.

ALBERT G. SOULE.

STATE OF VERMONT,
Franklin county, ss:

FAIRFIELD, *March* 16, 1848.

Then appeared and came before me the above named Albert G. Soule, the said deponent, and, after first being duly sworn according to law, gave his testimony, as contained in the foregoing deposition, in answer to the several interrogatories hereto annexed; and the same was reduced to writing by me, and was duly subscribed by the deponent in my presence.

H. R. BEARDSLEY, *Commissioner.*

March 16, 1848. The foregoing deposition of Albert G. Soule was taken by me for the complainants in a case in equity wherein Cyril C. Tyler and wife are complainants, and George N. Black is defendant, and to be used in said case, to be tried before and in the United States circuit court, for the district of Maine, next to be holden at Portland on the first day of May, A. D. 1848.

H. R. BEARDSLEY, *Commissioner.*

U. S. CIRCUIT COURT, *Maine district, ss:*

CYRIL C. TYLER & WIFE
vs.
GEO. N. BLACK. } In equity.

Phebe Hendrick, a witness produced, sworn, and examined by and on the part of the orators in the above entitled cause, deposes, testifies, and says as follows, viz:

Phebe Hendrick's answers to plaintiffs' direct interrogatories.

In answer to the first interrogatory the witness says: That she is twenty-four years of age, and resides in Fairfield, Franklin county, Vermont. I am not acquainted with the orators, Mr. Tyler and his wife. The first time I ever saw the defendant, Mr. Black, was at the house of Mr. Albert G. Soule, in said Fairfield, in November, 1846.

To the second interrogatory witness says: She knows nothing.

To the third interrogatory: Witness knows nothing.

To the fourth interrogatory witness says: That in November, 1848, a man who called his name Black, came to Albert G. Soule's house, where I was then living. Just after he entered the house I entered the room where he, Mr. Black, Mrs. Soule, and Mr. Putnam were sitting. The first question I heard was one put by Mr. Black to Mrs. Soule and to Mr. Putnam, namely, whether they were the heirs of Dr. Putnam.

To the fifth and sixth interrogatories witness says: That she was present during a conversation between Mr. Black, Mrs. Albert G. Soule, and Mr. Putnam, at said Soule's house, in the month of November, 1848. Mr. Black said to them, he had come to buy some land belonging to them in Washington county, Maine, No. 32, Lottery block, on Union river. That he had paid the taxes upon it for a long time, amounting to about two hundred dollars, which was all the land was worth, and he could not afford to pay that if he had not land adjoining it. I understood him to say that the number of acres might be 250, but could not exceed 300 acres. Black remarked to Mr. Putnam and Mrs. Soule, that they were the only heirs. Mrs. Soule replied, that he was mistaken, that she had an aunt, Mrs. Tyler, of Hopkinton, New Hampshire, who was still living. Said Black replied, that she was dead and had left no children. Said Black said he had never seen the land; he had only heard about it; that he could not tell whether it was bog, heath, or meadow land. Mr. Putnam asked Mr. Black several questions about the land, where located, and where the title deeds were recorded. Mr. Black said he could not tell any thing about it; that he had inquired in several places about the title, in Charlestown, Boston, and other places, but could find no record of any title, and he did not know in what office the record was to be found. He further said, that a public road had been, or was to be, laid across the land, and through the town where the land lay, that would cost several thousand, I think, two or three thousand dollars, and that this land would be taxed high for that purpose. That the land of itself was worth but little, and that the only object he had in buying it, was that he owned lands around it or adjoining it. I heard him say that there had been hundreds of acres sold, adjoining or near the land, for a York shilling an acre. Mr. Black was very much confused during the conversation.

Mr. Putnam told Mr. Black they should not consent to sell at present. Mr. Black told Mr. Putnam, there would probably be other applications to buy the land, and if he would not then consent to sell, he wanted he should give him the preference thereafter, if he would give as much as any other person. Mr. Putnam said he should ascertain more about it, and if he would give as much as any one else, perhaps he would give him the preference; but he should not sell till he had satisfied himself better about the condition, situation, and value of the land. He, Black, further said, he claimed a lien upon the land

for the taxes he had paid, and insisted that they should either convey to him the land or refund to him the amount he had paid for taxes.

To the seventh interrogatory witness says: That she can say nothing in addition to what she has stated in answering the sixth interrogatory, except that Black said he lived in Boston.

To the eighth interrogatory witness says: She knows nothing in particular.

To the ninth interrogatory witness says: She can answer nothing.

To the tenth interrogatory witness says: She can state nothing in addition to what she has already stated.

PHEBE HENDRICK.

Phebe Hendrick's answers to defendant's cross interrogatories.

To the cross interrogatories the witness answers as follows, namely:

To the first cross interrogatory witness says: That she repeats the conversation before related from memory.

To the second cross interrogatory she says: She has never seen any writing purporting to be a statement of said conversation.

To the third cross interrogatory witness says: That she did not understand from said Black, that he had never heard of Mrs. Tyler till informed at Fairfield. He said he had ascertained for a fact that she was dead and left no children.

To the fourth cross interrogatory witness says: She has no knowledge about the facts or matters inquired after.

PHEBE HENDRICK.

STATE OF VERMONT, *Franklin county, ss:*

Fairfield, March 16, 1848. Personally appeared Phebe Hendrick, the deponent, and after being first duly sworn, according to law, gave her testimony as contained in the foregoing deposition, upon the interrogatories hereto attached, and that the same was taken down in writing by the commissioner, and subscribed by the deponent in the presence of the commissioner.

H. R. BEARDSLEY,
Commissioner.

I do hereby certify, that the foregoing deposition of the said Phebe Hendrick was taken to be used in the United States circuit court, for the district of Maine, next to be holden at Portland on the first day of May, 1848, in a case in equity, wherein Cyril C. Tyler and wife are complainants, and George N. Black is defendant, for complainants.

By H. R. BEARDSLEY,
Commissioner.

To the honorable circuit court of the United States, next to be holden at Portland, in the district of Maine, on the 1st day of May, A. D. 1848.

The undersigned having been agreed upon by the parties in the suit

in equity, entitled Cyril C. Tyler and wife vs. George N. Black, as commissioner to take the testimony of the several witnesses whose names are severally subscribed to their respective depositions herewith returned, certifies, that on the 16th day of instant March, he propounded to said several witnesses the several interrogatories hereto annexed, said witnesses being first severally duly sworn, according to law, and that he reduced their several answers to writing, as they appear in the foregoing depositions; and that the several depositions were by them severally subscribed in my presence, and sealed up by me.

In witness whereof I have hereunto subscribed my name, this 16th day of March, A. D. 1848.

H. R. BEARDSLEY,
Commissioner.

Elizabeth P. Soule's answer to plaintiffs' direct interrogatory.

CIRCUIT COURT, U. S.,
District of Maine, ss:

CYRIL C. TYLER and WIFE
vs.
GEO. N. BLACK.
} In equity.

Elizabeth P. Soule, wife of Albert G. Soule, a witness produced, sworn, and examined by and on the part of the orators in the above entitled cause, deposes, testifies, and says as follows, viz:

To the first interrogatory she says:

That she is the wife of Albert G. Soule, of Fairfield; that she resides at said Fairfield, Franklin county, Vermont; that she has known Mrs. Tyler, the present wife of Dr. Cyril C. Tyler, for many years, and since her first remembrance; she is my aunt; I have also known the said Cyril C. Tyler personally for two or three years, and by reputation since he married my aunt, his present wife; I first became acquainted with the defendant, George N. Black, one year ago last November, at said Fairfield.

To the second interrogatory says:

That I did not personally know Dr. Aaron Putnam, mentioned in this interrogatory, during his life; I have always heard from my mother, and other family connexions, that the said Dr. Aaron Putnam was my grandfather; my father and mother are both dead.

To the third interrogatory says:

I have always understood that my grandfather had eight children, four of whom were living at the time of his decease; the names of those living at the time of his decease were, John J. Putnam, Fitch P. Putnam, Charles Putnam, and Sarah Putnam; Fitch P. was my father, and Sarah is the wife of Dr. C. C. Tyler, one of the complainants; all of the sons of my said grandfather, except my father, died without issue; my father, the said Fitch P., died July 16, 1820; my father and the complainant Sarah, the wife of Cyril C. Tyler, were

the heirs-at-law of my grandfather, the said Dr. Putnam, and of my said deceased uncles; upon the decease of my father, the real estate of which my grandfather and uncles died seized, descended to Mrs. C. C. Tyler, the complainant, to myself, and to my brother, Edward F. Putnam, of said Fairfield, as the heirs-at-law, in the proportion of one half to the said Sarah Tyler, the said wife of the said Cyril C. Tyler, and the other half to myself and my said brother; all the other legal heirs being now dead.

To the fourth interrogatory says:

That the defendant, the said George N. Black, introduced himself to myself, my brother, and my husband, the said Albert G. Soule, in Nov., 1846, at said Fairfield, Vermont, and inquired of us if we were the heirs of Dr. Aaron Putnam, of Charlestown, Mass., saying, if we were, that we had an interest in some lands in Maine, and he wished to purchase it.

To the fifth interrogatory says:

I was present at one interview with the said Black on the subject of said lands in Maine; this interview was at my husband's house in Fairfield, and in the presence of Rev. Edward Putnam, Phebe Kendrick, and witness; said interview is the only one had by myself with said Black.

To the sixth interrogatory says:

That said Black said he came to buy some land belonging to myself and said brother, E. F. Putnam, in Washington county, Maine, No. 32, Lottery block, on Union river; that he, said Black, had paid the taxes upon it for a long time, 27 years, amounting to two hundred dollars, which was all the land was worth, and he could not afford to pay that if he had not land adjoining it; he said that the number of acres might be 250, but could not exceed 300 acres; said Black remarked to my said brother, that he, said brother, and myself, were the only heirs; I replied that he was mistaken; that I had an aunt, Mrs. Tyler, in Hopkinton, New Hampshire, who was still living; said Black replied that she was dead, and had left no children; said Black said he had never seen the land; had only heard about it; that he could not tell whether it was bog, heath, or meadow land; my brother, said E. F. Putnam, asked Mr. Black several questions about the land, where located, and where the title-deeds were recorded; said Black said he could not tell anything about it; that he had inquired in several places about the title, in Boston, Charlestown, Medford, and other places, but could find no record of any title, and did not know in what office the record was to be found; he further said, that a public road had been, or was to be, laid out across the land, and through the town where the land lay, that would cost several thousand dollars, I think two or three thousand dollars, and this land would be taxed high for that purpose; that the land of itself was worth but little, and that the only object he had in buying it was, that he owned lands around it, or adjoining it.

I heard him say that there had been hundreds of acres sold adjoin-

ing or near the land for a York shilling an acre; Black was very much confused during the conversation; my brother told Black we should not consent to sell at present; he told my brother there would probably be other applications to buy the land, and if he would not then consent to sell, he, Black, wanted he should give him the preference thereafter, if he would give him as much as any other person; my brother said he should ascertain more about it, and if he would give as much as any one else, perhaps he would give him the preference, but he should not sell till he had satisfied himself better about the condition, situation, and value of the land; he, Black, further said, he claimed a lien upon the land for the taxes he had paid, and insisted that we should either convey to him the land, or refund to him the amount he had paid for taxes.

To the seventh interrogatory witness says:

She can say nothing in addition to what she has already stated in answer to 6th interrogatory.

To the eighth interrogatory witness says:

That the reason she would not consent to sell the land to Black was, that she did not credit the statements made by Black about it. Black's manner and appearance indicated to the mind of the witness that the statement of Black, as to the quantity and value of the land, was not to be relied upon.

To the ninth interrogatory witness answers:

That she knows nothing of the subject matter inquired after by said interrogatory.

To the tenth interrogatory witness says:

She can state nothing further than she has already before stated.

Elizabeth P. Soule's answers to defendant's cross interrogatories.

To the cross interrogatories witness answers as follows:

To first cross interrogatory witness says:

She has detailed the conversation above testified to from memory.

To second cross interrogatory witness says:

That she has not read any writing purporting to be a statement of the conversation above testified to.

To the third cross interrogatory witness says:

That she did not understand from said Black that he had never heard of Mrs. Tyler till he was informed at Fairfield; on the contrary, he said that he had learnt that she was dead; that a Mr. Hall, of Boston, told him so, and that she had left no heirs.

To the fourth cross interrogatory witness says:

She knows nothing about the matters inquired after.

ELIZABETH P. SOULE.

STATE OF VERMONT,
Franklin county, ss:

Fairfield, March 16th, 1848, personally appeared before me, Elizabeth

P. Soule, the said deponent, and after being first duly sworn according to law, gave her testimony as contained in the foregoing deposition by her subscribed; and that the same was taken down in writing by the undersigned, and was duly subscribed by the deponent in the presence of the undersigned commissioner.

H. R. BEARDSLEY,
Commissioner.

I do hereby certify, that the foregoing deposition of Elizabeth P. Soule, was taken to be used in the United States circuit court, for the district of Maine, next to be holden at Portland, on the first day of May, 1848, in a case in equity, wherein Cyril C. Tyler and wife are complainants, and George N. Black is defendant, for complainants.

By H. R. BEARDSLEY,
Commissioner.

Plaintiffs' direct interrogatories to Benj. Dyer.—Interrogatories to be propounded to Benj. Dyer, a witness on behalf of said complainants.

1. What is your age and place of residence; what has been your principal business for the last twenty years, and particularly for the last five or six years; how many townships of land have you explored within the last six years for the purpose of estimating the quantity and quality of timber on them, and value thereof; and for whom in each instance; did the persons who so employed you wish to buy or to sell said townships; did they or not, in many and most cases, buy the same on your report of the character and value of the timber thereon?

2. Did you or not, in July, 1848, by request of Dr. Tyler's counsel, make an exploration and examination of the Lottery lot, numbered one, in township number thirty-three, middle division, in Hancock county? If so, please to state whether or not you first notified the defendant, Black, of your intention to make said examination. If said notice was in writing, annex a copy of it, and make said copy a part of your deposition Why did not David Silsbee, named in said notice, accompany you? State the time and circumstances under which you gave said notice to said Black, what he said on receiving it, and what he did to anticipate your arrival at D. Silsbee's.

3. Did you or not make an examination of said lot, pursuant to said notice, and who accompanied you; did any one accompany you by request or for said Black?

4. State fully and particularly, and in the order of time, all that you did in making said examination, both as it regards finding the lines of said lot, and examining its timber and wood, and the facilities for getting it to market. Where did you begin, how did you proceed, and where did you end your examination? State how you found the lines; what lines you did find; what you found to be the true limits of said lot as ascertained by actual admeasurement, and every fact relating thereto.

How did you proceed to examine the timber and wood on said lot; was your mode of examining said lot such as that you and Russell Silsbee could each obtain a full knowledge or a just estimate of the lands, quantity, quality, and value of the pine, spruce, hemlock, and other timber and wood upon said lot; the nature of the soil, the streams which pass through it, or near it, and generally the facilities for getting lumber to market? Please state your estimate of various quantities of lumber, their kinds and qualities.

5. Please to state if, in making said exploration and examination, you, and each of you, framed an opinion separately and independently of each other, as to the matters inquired about in the last interrogatory, or any of them, with a view to determine the price or value of said timber and land by the acre. What, in your opinion, was the same worth by the acre in July, 1848, for its timber and soil?

6. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or any of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

FRED. HOBBS,
Solicitor for complainants.

Bangor, August 28, 1848.

MAINE DISTRICT, *U. S. circuit court.*

C. C. TYLER & UX.
vs.
GEORGE N. BLACK. } In chancery.

Defendant's cross interrogatories to Benj. Dyer.

Cross interrogatories to be propounded to Benjamin Dyer.

First cross interrogatory. Are you the same Benjamin Dyer who explored township No. 3, in the 13th range, west from the east line of the State, in company with John Towle and John Thomas, in the spring of 1835?

Second cross interrogatory. Did said Towle make a written statement in regard to said exploration, and his estimate in regard to the quantity of timber on said township; and did you, in writing, state that you fully concurred in what Towle said?

Third cross interrogatory. Please examine the paper hereunto annexed, marked A, and state whether or no it contains a correct copy of the statements signed by Towle and yourself, inquired about in the last preceding interrogatory; and if it be not a correct copy, please state wherein it is incorrect.

Fourth cross interrogatory. Did not said Towle say that he should judge, from what he had seen, that there could be no less than one hundred and fifty or two hundred millions on said township, or words

to that effect; and did you not state that you fully concurred in that opinion?

Fifth cross interrogatory. Was not your examination of this lot No. 1, in township No. 33, the second made by direction of complainants' counsel since the commencement of this action; has not said counsel informed you that he had a prior examination made; and have not you, at his request, by his suggestion, or otherwise, had a conversation with some one or more of the men employed in that first examination? State the names of the men so employed, the names of those you conversed with, and whether or no notice was given of the exploration to be made by them to said Black, so that he could unite with them in the same.

Sixth cross interrogatory. Did not said Black say to you at Ellsworth, on the day that you notified him that you were to make an examination, that he had had all the examination made that he wanted, and was unwilling to pay any more expense; and, in reply to your remark that you wished that he could send Dodge, did he not say that Dodge was in town, and that you could hire him to go with you if you wanted to, or words to that effect?

Seventh cross interrogatory. If you have stated, in answer to the second direct interrogatory, that Black did anything to anticipate your arrival at D. Silsbee's, please state how you know he acted on that motive, and what precise acts of his you know flowed from such motive.

Eighth cross interrogatory. Please state all the surveyor's instruments that you had with you in the examination of this lottery lot; had you a chain or tape?

Ninth cross interrogatory. Please consider the said lottery lot divided into three sections of a mile square each; then describe the location of every berth of timber that you found, stating which mile section it is on, and what part of the section, and the quantity, and quality, and value of said berth of timber.

JAMES S. ROWE,
Solicitor for defendant.

Paper A.—Paper A.

Mr. H. Mitchel.

Sir: Agreeably to your desire, expressed in a letter to me by Mr Shaw, I took Capt. Dyer, and also Mr. John Thomas, of Brownville, and went to town. No. 3, in [range] 13; and, after finding the east line of the town. upon the south side of the Carriboo lake, we crossed the lake northerly, bearing a little west, for the purpose of going into a body of timber to ascertain its quality; through which timber we travelled about a mile, and found it to be the first rate of large bodied trees, from ten to twelve M per acre; then half a mile, through a lot of middling quality, and climbing on a ridge of hard wood, we saw, one-half a mile distant, the commencement of another berth, to which we could see no end; and, southward, we travelled half a mile to it, and

then took a course N. W. about a mile and a half, through large and good timber the most of the way, until we came to a hard wood knoll, when we climbed again, and saw that the timber we were in covered all the west part of the town.; then going half a mile further west, across a bog brook, which we supposed run into the lake, or small pond at the head of the lake, satisfied ourselves that the timber was large and good, by far exceeding that I had ever seen before; and, as you wished me to compare it with the Carriboo, No. 2, in 12, I think it better; and, as to the Howe town., it must exceed that by far in value for timber. I should judge, from what I have seen, that there could be no less than one hundred and fifty or two hundred million. In going to or from No. 3, we crossed the Carriboo in different places, in order to compare it as you wished me to do, and found the timber to be much better than the Carriboo. I could not think any less in quantity, and the best and most valuable timber town. I have ever seen; and am ready to show you, or any one whom you will send, that the foregoing statements are correct.

Your most obedient servant,

JOHN TOWLE.

Bangor, Saturday, April 11th, 1835.

Having explored township No. 3, 11th range, with Mr. Towle, I fully concur in what he has said of it.

BENJAMIN DYER.

Benj. Dyer's answers to plaintiffs' direct interrogatories.

Benjamin Dyer, the deponent, for whom the foregoing interrogatories were prepared, being before me, and having been carefully examined thereupon, made the following answers, viz:

Direct interrogatories.

1. I am 44 years old; I reside in Old Town; I have been for twenty years past engaged in the lumber business, and in exploring and surveying lands; ever since 1843, I have been engaged in exploring lands for different individuals; this has, for that period, been my principal business. In 1843, 1844, and 1845, I was so engaged constantly on wages; I have explored twenty townships within six years, for the purpose mentioned in the question.

During 1843, 1844, 1845, I explored township No. 8, in range 10; No. 8, in 9th range; east half of No. 7, in 9th range; No. 9, in range 7; No. 10, in 7th; 12, in the 7th; 11, in the 6th range; No. 9, in 5th range; No. 8, in 8th range; No. 15, in 4th range; No. 16, in the 2d range; letter B and letter E in 1st range. I explored all the townships named for Samuel Smith. Since that, I have explored No. 6, in range 7, for Amos M. Roberts; No. 8, in the 8th, for Mrs. H. McCrillis, myself, and Ira Wadleigh and others. I cannot recollect the No. and ranges of the others. Yes, I remember three others; No. 5 in the 13th

range; west half of 12 in the 13th, and No. 4 in range 10. I was employed to go on to them by Samuel L. Hunt. Said Hunt, or the party for whom he went up, bought No. 4 in 13th, and 5 in the 13th; I bought for others No. 4, in the 16th range.

My employers in all said explorations, were persons intending to purchase. They, or some other persons, bought most of the towns before mentioned, on my report of the character and value of the timber thereon.

2. I did explore and examine the lot described in the interrogatory by request of Frederick Hobbs, esq., acting as counsel or agent for said Tyler. I started on said business July 11, 1848. Before said exploration I did notify said Black of my intention to explore the same. The paper annexed by the commissioner, marked A, is a true copy of the notice which I delivered to said Black, who was sitting in his carriage in the street in the town of Ellsworth. I left Bangor the 11th, at 12 p. m., for Ellsworth, and waited in said town one day for said Black to return. On the 13th, seeing said Black coming in the street I called to him; he stopped; I gave him the notice which he read. I asked him if he would send a man with me to explore said lot. He said no, he had had it explored as much as he wished, and should not send any one. According to my minutes, it was the 11th when I left Bangor. It might, however, have been the 12th, which is the date of the notice; whichever day it was, I carried said notice with me from Bangor. Said Silsbee gave me, as a reason for not going with me, that his health was bad, and he was about commencing his haying, and recommended his brother as a suitable man. After giving the notice to said Black, I started the next day and went to Aurora, where said Silsbee lived. I went to see Silsbee, and gave him a letter from Mr. Hobbs, which he read, and then gave the reasons before mentioned for not going. I asked him if he had seen Black, and he said Black had been to his house the night before I arrived there. I asked him if Black said any thing about the exploring this land, and he replied that he did mention it. I have no other knowledge of what Black did to anticipate my arrival at Silsbee's, except as above stated.

3. I did so examine and explore said lot. Roswell Silsbee, the postmaster at Aurora, and brother of the David Silsbee named in said notice, accompanied me. No one accompanied me by request of or for said Black. Silsbee went at my request, recommended to me by his brother.

4. I began at the northwest corner of the township, which is also the northwest corner of the lot in question. The corner is a hemlock tree, marked "1809," with the surveyor's seal, (-); also a cedar stake, marked "1844, Addison Dodge." We then went east on the town. line, found the first mile tree marked, and also the second, but could not find any tree marked at the end of the third mile, therefore we continued on, and struck upon Union river, which we supposed to be about 150 rods beyond the northeast corner of said lot, or where the third mile tree ought to be. We, then, in order to find said corner,

went back to the second mile tree, and then measured one mile east, and made the northeast corner. We run south, from the northeast corner, 306 rods, and crossed a new line running east and west, which we supposed to be the south of the line; we started on said new line and went west, and found it was an east and west line, and we called it the south line of the lot, although it was 14 rods short measure, as the lot ought to be a mile wide; we could, however, see more than 14 rods each side of said line, and tell what timber there was. When we struck the west line, we found a tree marked, which we concluded to be the corner. From this corner to the northwest corner before mentioned, we had run on the line before; our course in examining was to climb trees very frequently, sometimes oftener than every half mile, always as often; and when we saw a berth of timber, we would travel into and examine it; and we found on the west line, within 50 rods within the line, according to our best and most accurate calculations, five thousand feet pine to the acre; we at first thought of counting the trees, but finding it would take as much as three months to do it, we made the best estimate we could.

Within 100 rods of the northwest line, and on the lot, we estimated one thousand feet of pine of first quality, to the acre, for the first mile; this is over a hard wood ridge. On the second mile, timber same as the first, hard wood growth, with spruce and cedar, soil poor; on that line we crossed a small brook, running southeast; on the first half of the third mile saw 100 large trees, and of first quality pine; we estimated them to make 150 thousand feet. On the whole mile on this line and near the line, we estimated 300 thousand pine.

West of the east line there is pine timber of a good quality; also a growth of cedar, spruce and hemlock; soil poor. We travelled on the south line west 140 rods; climbed and saw north of us, extending some 50 rods and near the east line, a berth of timber, which we went into and examined, and estimated at 150 thousand; then continued on the south line, west, over hard wood ridge, found good pine timber, scattering, large, and of the first quality; large quantity of spruce and hemlock.

Near the first mile mark we climbed and saw a large berth of pine, near the middle of the eastern mile square; the rest of the south line runs through an open growth of pine timber and burnt land; the timber is of small size, part dead and part burnt.

Near the second mile mark, going west, is a small brook running southeast, and near the brook a large berth of timber, small size; remainder of the south line runs through burnt land, till within 30 or 40 rods of the west line, when we came into the pine timber before spoken of in describing the west line. All the way till we reached said west line, we saw pine timber lying north of us.

From the west line we went back on the south line 100 rods, then north half a mile, then east one mile, then northeast to the north line at the 2d mile tree, then southeast three-quarters of a mile, into about

the middle of the 3d mile square. In the whole course of this exploration, above set forth, saw timber of good quality, pine.

We next went from the 2d mile mark on the north line, one half mile, to the small brook running southwest; then southwest one half a mile to the new line running north and south; then west to the town. line, 100 rods south of the northwest corner of the lot, from the new line, by which I mean a line between the first and second mile square. As we went west in the 1st mile square, it was heavily timbered, and timber of first quality; then we went south on the town. line, or west line of the lot, to the southwest corner of the lot.

Then went east, and out of said lot, to Dead stream, 98 rods by measure; then down Dead stream to a lake in the middle of the town., in about a southeast course. This was the end of the exploration. Dead stream has been driven from a point within half a mile of the southwest corner of the lot; this place or point is on township 32, and is south of the southwest corner of this lot. By expending fifty dollars, the stream may be made navigable about 40 rods further north, up to a point west from the southwest corner, which would bring the stream, for navigable purposes, 60 or 70 rods nearer the timber on this lot.

We spent 7 days on the tour, making the exploration before described; six days on the lot, and one day tracing and examining the stream. The lot is three miles east and west, and 14 rods less than a mile north and south, supposing we found the true south line; the line which we called the south line was run correct, and was well spotted, and terminated at a marked tree on the west line of the town., which we had no doubt was the corner of the lot; the same marks were on that tree as were on all the rest on the line. There can be no doubt but this was the true south line.

We examined the timber and wood, by going into the different berths and trying the trees with an axe, to see how thick the sap was; having first ascertained the berths by climbing, which we did very often on the different tracks which we went through on the lot, as before stated.

Our mode of examining was such that, in my opinion, we could, both Silsbee and myself, obtain a just estimate and full knowledge as to the various points inquired about.

I would also state, that the Maine Union river runs within half a mile of the east end of the lot, and it is easy to get the timber from that part of the lot into said river, which is a good driving stream.

We estimated of pine timber on the whole lot, suitable for board logs, three million feet, worth two dollars and fifty cents per thousand, standing; of spruce timber 500 thousand, worth 50 cents per thousand; of hemlock 800 thousand, which we did not consider worth any thing, on account of the situation and the expense of getting it to market; the land we estimated as being of no value at the present time, except for the timber. According to the above estimate of the timber, the lot is worth, or was when we were on it, four dollars and four mills per acre. The timber on the west half would naturally be hauled into Dead stream, the rest into Union river.

5. We did form an opinion on the points inquired of separately and independently of each other, with the view mentioned in the interrogatory. We formed our judgments and estimates separately, and then compared notes, and finally agreed upon the value of the land per acre, as stated in the last answer above. The quantities of timber stated in said answer are the lowest; his, Silsbee's, estimates being generally higher than mine.

6. In order to ascertain, as well as I could, the quality of the timber near this lot, I travelled into the old logging roads of the town. west of this, a mile and a half by measure, and examined the stumps of the trees which had been cut, to see how much timber had been cut and abandoned as unfit for hauling, and found only one tree which was cut and not hauled that was rotten. I found from the examination, and from indications afforded by the stumps, that the timber was of a sound and good quality. The average distance to haul the timber would not be more than a mile and a quarter. This is the only thing which occurs to me as being material on the subject of my exploration which I have not stated in former answers.

Benjamin Dyer's answers to defendant's cross interrogatories.

Being next examined on the cross interrogatories, he answers as follows:

1. I am the same man who went across No. 3, from letter A, in the 10th range, where I was logging; I went at the request of said John Towle, with him and said Thomas, and was on said township two days, or a day and a half. I did not consider myself as exploring the town. Towle told me he was going over said town. to compare it with the Cariboo town., to see which had the most timber on it, and asked me to go with him. Towle was all winter at my camp scaling.

2. Some time after we had been on said town., said Towle came to me with a young man by the name of Brastow, I think it was in the fall afterwards, and either brought a report, or made one in my presence, I don't remember which, and asked me to sign it, which I did. I don't recollect now what the statement was which I signed.

3. Paper A is a correct copy, so far as I recollect; I did not sign it at the time of its date, but long afterward, as before said.

4. Said Towle said he had explored the town. enough to satisfy him that there was that quantity of timber on it. He told me that, after we were there in the spring, he had been on and explored the town. in the summer. I don't recollect what I said about it in conversation. I signed the statement to which my signature is attached on Paper A. If the whole town. had been as well timbered as the part I saw, I believe there would have been said quantity on it.

5. I don't know whether an examination had been made, by direction of said counsel, before mine or not. I don't know when this action was commenced; I did not know when I made the exploration that there was any action. I think Mr. Nobles or Mr. Fessenden told me that Dr. Tyler had been down, and that he, or somebody for him,

had been on to said tract and made an examination of it. Said counsel did not request me to talk with any person who had been on the lot, nor did I know who had been on until I got to Aurora. There David Silsbee told me of a man who had been on for Dr. Tyler. I saw that man, whose name is Foster, after my return from the exploration; I saw him by his house by the road side, at Aurora, as I and Roswell Silsbee were coming along in a wagon. We stopped and spoke with him a minute or two; Foster asked Silsbee if he had been on to said lot; he replied that he had. Foster asked Silsbee what he thought of it; or perhaps he addressed his remark to both of us. I don't remember that I made any reply; don't remember what Silsbee said. Silsbee asked Foster if he, Foster, found a new line on the lot, and how many days he was on it? I think Foster said he did find what he called a check line, and that he was on it three days. This was all the conversation that I recollect, and the only conversation I ever had with him. When David Silsbee declined going with me I asked him to recommend some one to go, and he named this Foster, and said he would go and see him; he returned, and said Foster was not at home, and then recommended his brother. Foster is the only man I know of who has been on the tract for Tyler; his christian name I don't know. I have no knowledge whether notice was given to Black of the first examination or not.

6. He stated nothing more than I have testified in my second answer on the direct examination. I gave his language as near as I can recollect; he did not say any thing about the expense; I did not say that I wished him to send Dodge, or any other man, nor did he mention his name to me, or say any thing to the purport of what is mentioned in the last part of this interrogatory.

7. I went from Ellsworth to Aurora with the mail carrier, and heard on the road that Black and Dodge had gone up to Aurora the day before. I have no personal knowledge of Black's motives, nor of his acts in relation to this matter. I stated, in answer to the direct interrogatory No. 2, all I had learned on the subject, except what I have now stated.

8. I had a compass and a tape line; I had no other instruments.

9. There is timber all over the first mile square, but the main body of timber is in the middle of the mile; being more extended east and west than it is north and south; I think there was 600 or 700 thousand in that body; the next largest lot of timber on said mile is along on the west line; the rest is more scattered; I estimated about 1500 thousand on that mile. The centre berth is of the first quality of timber on the Union river; that on the west line is smaller, but good timber; the timber on the south line is smaller still; the average value of the timber on said mile is three dollars per thousand stumpage.

On the 2d mile the timber is more generally scattered; on the east side of the brook, which runs across the mile nearly in the middle in a southwest direction, there is the largest berth of timber, but it is small timber; the timber extending along on or near the north line, is the best that there is on the mile; I considered the timber on this mile of

the poorest quality of any on the tract; we considered it worth about two dollars stumpage; the quantity about 750 thousand.

On the third or east mile, it is all green land, or there is no burnt land; on the north line is a berth of timber, the trees of which we counted, being 100 in number; their quality good, worth 3.00 per M; quantity in these trees, 150 M; in the southeast corner of the mile is a berth of about 150 M more; good quality, same value as above; along near the west line of this mile, there is considerable timber, which is small, and a good deal of it not fit to cut; we made but little account of it; on the east half of the mile we estimated the quantity to be 400 M of good timber, such as a person cutting under permit would haul, worth 3.00 per M stumpage. The whole quantity of good timber we estimated to be 750 M on this mile; there is considerable burnt land on the centre mile; I think the fire has been over more than half of said mile; but it has not killed all the pine trees where it has been.

I could not answer this interrogatory more particularly without repeating nearly all I have said in my fourth direct answer; I have given as good an idea of the location, quantity, and value of the different lots of timber on the different sections as I can.

BENJAMIN DYER,
G. B. M., *Commissioner*.

A.

Notice from plaintiff to defendant to explore the lot in question.

BANGOR, *July* 12, 1848.

MR. GEORGE N. BLACK, *Ellsworth, Maine*.

DEAR SIR: The bearer, Benjamin Dyer, of Old Town, and David Silsbee, of Aurora, will explore the Lottery lot number one, in township No. 33, in the county of Hancock, for the purpose of ascertaining its character and value, with accuracy, and to which they will be called as witnesses for the complainants, in the suit in equity, now pending in the circuit court of the United States, for Maine district, between you and C. C. Tyler and wife. They will commence said exploration to-morrow, and you can be present, if you see fit.

Yours, respectfully,
FRED. HOBBS,
Solicitor for Tyler and wife.

A true copy—
BENJAMIN DYER.

UNITED STATES OF AMERICA,
Maine district, ss:

I, George B. Moody, a commissioner agreed upon by the solicitors in the cause named below, do hereby certify, that the foregoing deposition was taken by request of the complainants in the cause in equity,

wherein C. C. Tyler and wife are complainants, and George N. Black is respondent, now pending in the circuit court of the United States, next to be holden within and for the district of Maine, at Portland, on the 1st day of May, A. D. 1849. I further certify, that I am not of counsel or attorney to either of the parties, nor interested in the cause.

I caused to appear personally before me, at my office, in Bangor, on the 29th day of November, A. D. 1848, the said deponent, who was of lawful age, and he was by me first carefully examined, and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and I then put to him the interrogatories in their order, not allowing him to see any one until the preceding one was fully answered, and no one being present with me except the deponent, and wrote down his answers in his presence, which were carefully read over, and by him signed and sworn to. The cause of taking is the materiality of the testimony, and the cause being in chancery. Witness my hand, this 30th day of November, 1848.

GEO. B. MOODY,
Commissioner.

CIRCUIT COURT, UNITED STATES,
District of Maine, ss:

May term, 1848.

CYRIL C. TYLER and Wife
vs.
GEO. N. BLACK.

Plaintiffs' direct interrogatories to Geo. F. Foster, John B. Foster, and Wm. Hapworth.

Interrogatories to be propounded to Geo. F. Foster, John B. Foster, and William Hapworth, witnesses to be produced, sworn, and examined on the part of the complainants in said cause.

First. What is your age; where do you reside; what is your occupation; how long have you been so occupied or employed?

Second. Do you know the parties, complainants, or defendant, or either of them; if so, how long have you known them?

Third. Do you or not know anything of a lot of land in township numbered thirty-three, (sometimes called Tilden,) in the middle division of lottery lands in the county of Penobscot, and which lot is numbered one on the plan of said township, as containing 1,920 acres? If so, how long have you known said lot, and how near to it have you resided during that time?

Fourth. Have you or not had means of becoming particularly acquainted with said Lottery lot numbered one, by your residence near to it, or from the nature of your business, or from actual exploration and examination of it? State the way and manner of your first becoming acquainted with it, whether from your residence, business, exploration, or otherwise.

Fifth. If you have been upon, or examined said lot, at any time or times prior to December, 1847, state how many times, and when, as nearly as you can, prior to said time.

Sixth. Did you or not make a particular examination of it in December, 1847? Please to state who accompanied you in said examination; your mode of making the same; where you begun; how you proceeded; where you ended; whether or not your mode of examining it was such that you and each person could obtain a full and accurate knowledge of the kinds and quantity and quality of pine, spruce, hemlock, and other wood and timber upon said lot; the nature of the soil; the streams which pass through or near it; and, generally, the facilities for getting off said timber and wood, and for driving the same to market. If so, state as to each subject of inquiry, fully and particularly.

Seventh. Please to state whether or not, in making said examination, you, and each person that accompanied you formed an opinion separately and independently of the other, as to matters inquired about in the last interrogatory, or any of them, with a view to determine the price or value of said land per acre; what, in your opinion, was said land worth by the acre on November 30, 1846; what was its value in December, 1847; was it or not known to be of great value at those times and in that vicinity; what was the reputed value of said lot?

Eighth. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

FRED. HOBBS.

Bangor, January 22d, 1848.

Defendant's objection to plaintiffs' direct interrogatory to Foster and others.

Defendant objects to the seventh interrogatory, so far as it relates to the reported value of said lot, and as to whether it was known to be of great value in its vicinity.

JAMES S. ROWE,
Solicitor for defendant.

U. S. CIRCUIT COURT,
Maine district, ss:

CYRIL C. TYLER and Wife
vs.
GEORGE N. BLACK.

Defendant's cross interrogatories to George F. Foster, John B. Foster, and William Hapworth.

Defendant's cross interrogatories to G. F. Foster, J. B. Foster, and William Hapworth.

1. If, in your examination in chief, you have stated that you are,

or have been, a land surveyor, please state when and how long; whether you have surveyed tracts of wild lands; and if yea, how many, what, and whose tracts, and the extent of each, and at whose request.

2. If you have stated that you have been, or are, engaged in lumbering, please state when you were so engaged; how long; in what capacity; whether on your own account or in the employ of another; and if on your own account, to what extent; how many men and cattle you have employed; and how much lumber you have cut and hauled in any one season, and where.

3. Have you bought and sold timber lands; if yea, to what extent; of and to whom; how many acres do you now own?

4. Have you ever been employed by others to examine timber lands with a view to ascertain the quantity of timber on them, and their value; if yea, when, by whom, what tracts, and how extensive were they?

5. If, in answer to the third and fourth direct interrogatories, you have stated that you had any knowledge of the lot in question prior to your examination in December last, please state fully and in detail all such knowledge; and when, where, how, and from what source each portion of such knowledge was acquired?

6. When did you see, for the first time, the plan referred to in the third direct interrogatory?

7. Did you run out said lot and mark the lines when upon your examination in December last; if yea, who acted as surveyor, who as chainmen, who marked the trees, and at what intervals?

8. How many days were you engaged in that examination; where did you first go on to the land; what lines did you trace; what lines did you see?

9. In what part of the township does said lot lie; what is its extent from east to west; what from north to south?

10. Has any part of said lot been burnt over; if yea, where is the burnt land, and where the green?

11. Suppose said lot to be divided into three lots, each a mile square, on which is the burnt land; and how much of each has the fire run over?

12. Suppose each of said mile square lots to be divided in the centre by a line running north and south, and then state the kinds of timber, and the amount of each kind, found by you on each half mile strip; and the extent of burnt land on each.

13. When was said lot first run out and marked; has it ever been run out and marked; if yea, when and by whom?

14. How did you know when you reached the eastern or southern boundary of said lot?

15. Is there not a valuable berth of pine near the southern boundary of said lot; if yea, is it north or south of said boundary; and how do you know?

16. How did you ascertain the quality of the timber on said lot? State fully and particularly.

17. If, in answer to the seventh interrogatory, you have stated what, in your opinion, said lot is worth per acre, please state upon what your estimate is based; how much timber of each kind there is to the acre; its value standing; the value of the land with the timber off; and your reasons for making such estimates.

18. (Not waiving any objection to the seventh interrogatory.) If you have stated that said lot was known to be of great value, please state who knew it to be so; what knowledge such person or persons had of it, and from what sources it was obtained; and if you have stated the "reported value of said lot," state who reported it; and upon what knowledge that "reported value" was based; and when and where you have heard it; (omitting no occasion) the name of every person who was present, and the circumstances which made it the topic of conversation.

JAMES S. ROWE,
Solicitor for defendant.

DISTRICT OF MAINE, *ss:*

March 2, 1848. The parties, waving the provision of rule 67, of practice in equity, agree that George B. Moody, or William Abbott, esqrs., may take the testimony of said witnesses as under a commission.

FRED. HOBBS,
Solicitor for complainants.
JAMES S. ROWE,
Solicitor for defendants.

Geo. F. Foster's answers to plaintiffs' direct interrogatories.

George F. Foster, one of the witnesses named in the foregoing interrogatories, being first examined on the direct interrogatories, answers thereto, as follows:

1. To the first interrogatory he answers:

I am nearly 44. I reside in Amherst, county of Hancock. I am a farmer and lumber-man principally, and have been for 25 years.

2. To the second interrogatory he answers:

I have known the defendant, Black, for 20 odd years. I don't know the complainants.

3. To the third interrogatory he answers:

I know the lot, and have known its existence more than twenty years; but personally knew nothing of it before March, 1847, when I was requested to go on and examine it by Mr. Soule, of Vermont. I have resided about thirteen miles from said lot.

4. To the fourth interrogatory he answers:

My personal knowledge of the lot commenced in March, 1847. I was then on it four days, examining and exploring it for Mr. Soule; and afterwards, in the next May, I went on again at his request, and

was on it with him part of two days. In December, 1847, I went on to it with Mr. Hapworth and my brother, John B. Foster, who is since dead, at the request of F. Hobbs, esq., and was on it a little over three days, examining and exploring; and at these different times I have become well acquainted, I believe, with every part of the lot. I wish to correct myself as to the year of my first going on—it was in March, 1846, and not 1847.

5. To the fifth interrogatory he answers:

For answer I refer to my answer to the 4th interrogatory.

6. To the sixth interrogatory he answers:

I did make a particular examination of it then, in December, 1847. I have already stated who accompanied me. We begun on the eastern end of the lot, at the southeast corner, or near it, and went north across the whole lot, in parallel courses, at seeing distances, generally, from each other; then back to the south line, parallel to our other course; then back to the north line, until we had gone over and explored, in these parallel courses, the whole of the lot. We also passed cornerwise through a part of the lot on our way out of it. We looked out principally for the pine trees; some for spruce, but not so carefully. We reported to each other the berths of timber which we came to, and then all of us examined it. The way we arrived at the value, per acre, of the land, was by estimating the value of the timber per acre; and for this we took the current price of stumpage per M. We ended at, or near, the southeast corner of the lot, nearly where we commenced, that being where our camp was. I think that our mode of examining was such as to give each of us a full and accurate knowledge of the quantity and value of the pine timber on the lot, of the streams and facilities for getting off and driving. The spruce we took less account of; the hemlock still less; and the wood less again. We estimated the pine at two thousand feet per acre, worth two dollars and fifty cents per thousand. We didn't estimate the quantity of spruce. I think, from this and my other examinations, that there is about two hundred thousand feet of spruce. We don't take hemlock into the account. There is not a great deal of hemlock; perhaps seven or eight hundred thousand. I don't speak confidently about the spruce, because I wasn't instructed to take account of it. The main stream of Union river runs within half a mile of the southeast corner; this is a good navigable stream. On the south side of the lot is Williams' pond and Dead stream; the average distance of which, from the lot, I should think is about a mile and a half. Dead stream runs round the west end of the lot, and approaches within 80 or 100 rods of the northwest corner. Logs cannot always be got out of this stream the first year, when put in near the head of it. This year, however, they have been driven from the head, although it has been a very dry season. They are pretty sure to come when put into the stream south of the lot. The farthest distance to haul logs cut on this lot, to that part of either stream where they would be pretty sure to be driven the first year, is about two miles and a half; the average distance to haul, I

should think, would be about a mile and three quarters. I consider the facilities of driving and getting the lumber from this lot to market good.

7. To the seventh interrogatory he answers:

We chalked separately and independently as to the quantity of pine per acre; the estimates of all three separately were the same as to this; each of the other two estimated the value at two dollars fifty cents per M. My own estimate was three dollars. I afterwards submitted to their judgment as to the value. I still think it was worth three dollars. In my opinion said land, on November 30, 1846, was worth six dollars per acre; in December, 1847, it was worth the same. It was known by those in the vicinity who had been on to see it that it was of great value at those times. One John Coller, Judson Archer, had been on it; others besides those who went with me. I don't know what the reputed value of it at that time was. I did not hear the value fixed, except when we were on.

8. To the eighth interrogatory he answers:

I have been on to the lot three several times during the past and present year; twice to see if there had been any trespassing on it, and once with a Mr. Bradbury, who talks of purchasing for Mr. Miller; and the opinion of its value, which I formed when I explored it, is fully confirmed by said visits; I am satisfied again that it is worth six dollars per acre.

Geo. F. Foster's answers to defendant's cross interrog.

Being next examined on the cross interrogatories he answers:

1. I have not stated that I had surveyed, or been a surveyor of land; I have not been, except to a very limited extent; small lots.

2. To the second cross interrogatory he answers:

I have been engaged in lumbering about 23 years till within four years past; I have been chopper of trees in the woods; before I was of age and one or two years after, I worked for my father; after that on my own account, except one winter when I chopped for Mr. Tisdale; I have generally employed four oxen, and from three to four hands; four years ago I cut and hauled about 300 M; I have hauled more than that, but it was not scaled; my average winter's work has been less; the operations were on my own account, although my particular work was chopping.

3. To the third cross interrogatory he answers:

I never bought but one lot; never sold but one; I bought of the town of Amherst, and sold to Thomas Robinson and Seth Tisdale, of Ellsworth; this was 80 acres; I don't own any now.

4. To the fourth cross interrogatory he answers:

I have only been so employed to see if there was timber enough on a certain location for a team or teams; not to ascertain the quantity and value.

5. To the fifth cross interrogatory he answers:

I had not any personal knowledge of the lot before March, 1846; I have already stated in my 4th direct answer all I could say by way of answer to this; Mr. Soule was a part owner of the lot.

6. To the sixth cross interrogatory he answers:

I saw the plan, I think, near twenty years ago; my father had it.

7. To the seventh cross interrogatory he answers:

I did not run the lot in December; in March, 1846, I run the south line of the lot; we chained from northwest corner of the lot on the west line one mile, then run east three miles to the southeast corner of the lot; Dodge's south line, which was run afterwards, was from 4 to 6 rods farther south than this south line which I run; I run no other lines; they were all run before; I carried the compass on this line; Judson Archer carried the chain, and marked the trees, at intervals from 6 to 10 rods, sometimes nearer.

8. To the eighth cross interrogatory he answers:

Three days; we went on near the southeast corner; we traced all the lines round the lot; we saw no regular lines except the three lines, the exterior lines, and the one which I run as stated in my last preceding answer.

9. To the ninth cross interrogatory he answers:

It lies in the northwest corner of said township; it extends east from that corner three miles, and south one mile.

10. To the tenth cross interrogatory he answers:

Part of the lot has been burnt over, on about three hundred acres the timber has been destroyed; the fire has also run over about one hundred and fifty acres more, but without destroying the timber, though it has injured it in some places; the burnt land is on the southwest part of the lot, I mean the three hundred acres; the one hundred and fifty acres partly burnt extends from this east and northeast; a small brook runs through the burnt land from northeast to southwest; the green pine timber commences near the northwest corner, running east, along between a hard wood hill and the burnt land, till it gets up near the land which is slightly burnt over, thence extends south to the south line; thence east, along the line of the lot, nearly 100 rods; there it meets hard wood land; thence northeast between the brook and the hard wood land, till it gets nearly across the lot, to within 60 or 70 rods of the north line; north of the brook there is a strip of green timber, which meets the other described at the place about 60 or 70 rods from said north line; then from that point we go east from 80 to 100 rods across a hard wood ridge, where we strike another body of timber, which runs from the north line two-thirds across the lot; there is also some scattering timber from there down to the south line.

11. To the eleventh cross interrogatory he answers:

The 300 acres burnt would be on the west lot; the 150 acres partly burnt would be on the second lot, or middle lot; the fire has not run on what would be the eastern lot any.

12. To the twelfth cross interrogatory he answers:

The land was not divided into such strips, and I could not under-

take to tell the kind or amount of timber which would be on each strip; I have located the timber as nearly as I could in my 10th answer; the half mile west would take nearly one half of the 300 acres burnt, and the next half the rest, according to my best judgment; the 150 acres burnt would be on the 3d and 4th strip, most of it on the 4th; a strip of green timber passes down the length of the 3d half mile strip; I will not pretend to be very accurate as to this, because I never imagined it as divided in that way.

13. To the thirteenth cross interrogatory he answers:

Three lines had been run, I should think, in the neighborhood of forty years; the other line was not run until I run it. I judge by the appearance of the marks. The name of the surveyor and the year was on two trees, a beech and a hemlock, at the northwest corner; this was also the northwest corner of the township. I forget the name and date; I think it was either Peters or Kimball. The old marks on the lines appeared as old as those on the corner; but the lines had been traced over and new marks put on. In tracing lines, it is customary to leave the old marks, and put new ones above or below them. Mr. Dodge run the south line after I did, in 1848. I can't answer this any more definitely.

14. To the fourteenth cross interrogatory he answers:

The southern boundary I run and marked, as I before stated. From the northwest corner I run on the old line one mile south; then run three miles east, for the south line of the lot, to the centre line of the town., which centre line was marked, and was the eastern boundary of the lot.

15. To the fifteenth cross interrogatory he answers:

There is such a berth of timber; it lies south of said boundary; in some places runs up to the line. I have been in the timber, and I know where the line is. I have had occasion, in going on the lot, to pass through the timber.

16. To the sixteenth cross interrogatory he answers:

I am acquainted with timber, and I ascertained the quality by looking at, and examining, it particularly and carefully. Timber must always be judged by its looks while standing; it was generally straight and smooth where it so appeared, and there were no concusses or toad stools, and no other indications of its being poor or rotten; I considered it sound timber. I don't know [how] to answer this more fully.

17. To the seventeenth cross interrogatory he answers:

My estimate of the value per acre is based upon the number of thousand feet of sound pine timber. We estimated the quantity at two thousand per acre. I call it worth $3 per M, which makes the value per acre $6. I suppose there was something over 100 feet of spruce to the acre, probably from 400 to 500 feet of hemlock; but I did'nt take either into account in making my estimate of the value per acre, which was based entirely on the pine. I formed no estimate of the value of the land with the timber off. I don't consider it worth anything at present, except for the timber.

18. To the eighteenth cross interrogatory he answers:

I have already, in said 7th answer, named two persons who knew it to be of great value. I also name Roswell Silsbee, William Hapworth; I don't think of any others. The knowledge of these persons has been derived from their own observation of it. The lot had never been operated on before 1846, and has not since. I have not testified anything as to its reputed value; and therefore it is unnecessary for me to answer this question further.

GEO. F. FOSTER.

MAINE DISTRICT, *ss:*

July 27, 1849, sworn to before me.

GEO. B. MOODY, *Commissioner.*

Wm. Hapworth's answers to plaintiffs' direct interrogatories.

William Hapworth, one of the witnesses named in the foregoing interrogatories, being first examined by me on the plaintiffs' interrogatories, answers thereto as follows, namely:

1. To the first interrogatory he answers:

I am 60 years of age. I reside in Mariaville, county of Hancock, Maine. For ten years past I have been employed in a mill, either clapboard, shingle, or board saw-mill. For the past season I have been farming. Previous to that period of ten years, for fifteen years I had been engaged every winter cutting and hauling logs, in the spring driving them, and in the summer farming; was also last winter.

2. To the second interrogatory he answers:

I don't know the complainants. I know George N. Black, and have known him ever since he was a boy.

3. To the third interrogatory he answers:

I do know said lot; my first knowledge of it was nearly two years ago. It is within twelve miles of my residence.

4. To the fourth direct interrogatory he answers:

I had no knowledge of the lot till two years ago, when I was requested, by Charles O. Fanning for F. Hobbs, esq., to go on to said lot and explore it; which I did in company with George F. Foster and John Foster, and was on it exploring and travelling for two entire days, and passed over a considerable piece of it on our return home the third day, which was the fourth of our absence. This was in Novemper or December, 1847.

5. To the fifth direct interrogatory he answers:

I was not on it prior to November or December, 1847.

6. To the sixth direct interrogatory he answers:

We examined it then as thoroughly as we could for the time we were on it. I have stated who were with me. We begun near the southeast corner of the lot; travelled on the east part of the lot, and up nearly to the northeast corner; then west on the lot to near the northwest corner of the lot; then south till we struck a hard ridge near

the west line; it was not exactly a ridge, but rather a level. We went afterwards into different parts of the lot; looked out for timber; and, wherever we saw a lot or body of timber, we went and examined it particularly.. I cannot pretend to [be] very accurate as to the courses and distances of our several routes; we went over all parts of the lot sufficiently, in our estimation, to ascertain the quantity of timber upon it, and the quality; we did'nt take much account of the spruce, hemlock, or hard wood, or of the cedar; there was some very handsome cedar, and a good deal of it; also a considerable quantity of spruce and hemlock. At the end of the second day, we made our estimation of the quantity and quality of the pine; we went, on the second day, principally on the south part of the lot. We each estimated the quantity of sound pine timber at two thousand feet per acre; we valued the land, for the timber on it, at five dollars per acre; George Foster chalked six dollars; I chalked five dollars; after discussion, the others agreed to five dollars per acre as the value. Dead stream runs into Williams' pond; it is about a mile, I think, from the southwest part of the lot to the pond where the stream runs in. Timber can be easily got into the stream, and easily run in it. I cannot undertake to tell the courses of either that or the Union river, as they bear upon this lot, not being acquainted with the streams much myself.

7. To the seventh direct interrogatory he answers:

We made up our minds separately, and marked as to the quantity of timber independent of each other; then compared notes; then agreed upon the value per acre of the land. I thought then, and still think, it was worth in December, 1847, five dollars per acre for the pine timber on it; don't know the value in November, 1846; don't know of any reason why it should not have been worth less at that time; I could'nt tell what others knew of the value in the vicinity and at the times inquired about, nor what was the reputed value.

8. To the eighth direct interrogatory he answers:

You have got all that I know about the lot, and I know nothing about the cause.

Mr. Hapworth's answer to defendants cross interrogatory.

Being next examined on the cross interrogatories, he answers as follows, viz:

1. To the first cross interrogatory he answers:

I have not been a land surveyor. I have been with George Foster, and helped him chain two or three lines of small lots; I don't pretend to be a surveyor, nor do I understand the business.

2d. To the second cross interrogatory he answers:

My principal business for twenty-five years, and I might say for thirty years, has been lumbering and sawing lumber. I have cut and hauled lumber by the thousand, mostly for Col. Black, for the fifteen years previous to the last ten years. I have not been an owner of the timber which I have cut. A part of the time I have had charge of a six

ox team; part of time four ox team; part of the time half of a team; sometimes there would be three men, sometimes five; last winter I worked for Col. Black by the thousand, and we got out 252 M feet. I could not tell what I got out any one year of the 15 years, nor the average for that time, not now recollecting. I worked on township No. 33 last winter.

3. To the third cross interrogatory he answers:

I have neither bought nor sold timber land. I don't own any.

4. To the fourth cross interrogatory he answers:

I never was employed to examine timber land before nor since my exploration of the lot in question.

5. To the fifth cross interrogatory he answers:

I knew nothing about the lot before, except I had heard there was such a lot.

6. To the sixth cross interrogatory he answers:

I have never seen any plan of the lot.

7. To the seventh cross interrogatory he answers:

I did not run it or mark the lines.

8. To the eighth cross interrogatory he says:

In going and coming and remaining on the land we were four days. We were engaged exploring on the lot two whole days, and made some examinations the day before and the day after those two days. We went on near to the southeast corner. I did not trace any of the lines. Foster, George, knew the lines and traced them. He did not follow on the lines all the way, but kept on or followed them so as he was satisfied he was on the lot. I kept not a great distance from him, sometimes out of sight, but perhaps for the largest part of the time in sight of each other; never out of hearing distance. We went round the lot on or near all the lines. I saw the marks on the lines a great many times; I saw marks on all the lines.

9. To the ninth cross interrogatory he answers:

It lies in the northwest corner of the town.; it is a mile from east to west, I believe, but I never run it and don't know positively. I don't know the other distance; the mile distance may be from north to south instead of east to west; I never saw the lot on a plan, and never chained it. I should not have known where to go on to the lot but for George Foster. He piloted the way and showed me the lines.

10. To the tenth cross interrogatory he answers:

Part of it has been burnt over; the burnt land lies in a piece running from the southwest corner about northeast. I can't describe the location of it. I should think the fire had pretty much destroyed the timber on two hundred acres; it has run over a considerable more of the lot without injuring the pine timber. The burnt tract extends into the tract about the middle of the lot; the green land is on the sides of the lot, on the east and west sides. I cannot remember how so as to locate accurately the burnt or green tracts.

11. To the eleventh gross interrogatory he answers:

I think the next mile would take a considerable portion of the burnt

land, and the next mile, the rest of *the* badly burnt. I did'nt take sufficient notice of the burnt land to be able to give much of an idea about this. I never thought of dividing the land into strips in the manner mentioned. I could not begin to tell how much of each the fire had run over. I couldn't say much about the burnt timber, as to its locations, which would be much better than guess work. I was only looking to see how much, and of what quality, was the green timber.

12. To the twelfth cross interrogatory he answers:

I couldn't tell any thing about this; I couldn't undertake to tell the kinds or amount of timber on either of said strips; it would all be guess work. I never thought of any such division. The greatest quantity was on the south part of the lot. On the northeast part was a considerable tract of good pine timber; also a good deal of smaller timber, about five to the thousand, on northerly part of the lot; also a good deal of good timber in places where the fire had killed the small growth. I can't locate the green timber with much accuracy from memory.

13. To the thirteenth cross interrogatory he answers:

All I know about this is by hearsay and by seeing lines marked; the marks which I saw were new marks, except on the north line, where I saw old marks; I think I saw old marks also on the west line. I saw Addison Dodge's initials on the northwest corner; I saw no other names or letter that I recollect. Don't know who run them.

14. To the fourteenth interrogatory he answers:

I knew only from George Foster; he told me, and showed me marks on what he said was the line which he had traced the spring before. I relied on him for knowing the lines.

15. To the fifteenth cross interrogatory he answers:

There is a valuable berth of pine timber on the southern part of the lot, near the line, and I saw what appeared to be a valuable berth south of that, and off the lot, but did not go to examine it; I paid no particular attention to it. I saw this good timber on each side of the line, as we went along, and examined that which was on the lot. As I said before, I knew where the line was only by what Mr. Foster said, and seeing the marks on what he pointed out as the line.

16. To the sixteenth cross interrogatory he answers:

By viewing it carefully; if a tree was straight, good size, long bodied, and smooth barked, without concusses or rots, we called it very good timber, and very sound; there was very little concussy indeed; I don't know as I can state more fully.

17. To the seventeenth cross interrogatory he answers:

My estimate is based on the quantity, and quality, and value of the pine timber; I made no estimate as to the quantity per acre, of any kind except the pine, which I estimated at two thousand feet per acre. I thought the timber was worth three dollars per M. standing, but concluded to call the land worth five dollars per acre, so as to be within bounds. I can't undertake to say what the land would be worth, timber off; very little; I only valued it for the timber.

18. To the eighteenth cross interrogatory he answers:

I have testified nothing which the question supposes, and, therefore, have nothing to say in answer to it.

his
WILLIAM × HAPWORTH.
mark.

MAINE DISTRICT, *ss:*

July 30, 1849, sworn to before me.

GEORGE B. MOODY, *Commissioner.*

UNITED STATES OF AMERICA, *Maine district, ss:*

I, George B. Moody, a commissioner, agreed upon by the counsel for the parties, hereby certify, that I caused to appear before me, at my office in Bangor, in said district, the aforesaid deponents, said Foster on the 27th day of July, A. D. 1849, and the said Hapworth on the 30th day of said July, each of whom being first duly examined, cautioned, and sworn, to testify the whole truth, severally made the answers subscribed by them to the foregoing interrogatories in their order; which answers were reduced to writing by me in the presence of the deponent, and were afterwards subscribed and sworn to by him; no other person was present during the taking, and neither of said deponents was allowed to see any interrogatory until the preceding was fully answered. Said depositions are taken in the case in equity, named at the beginning of the interrogatories, now pending in the circuit court of the United States, next to be holden at Portland, in said district, on the 23d of September, 1849.

Witness my hand, this 31st day of July, 1849.

GEO. B. MOODY, *Commissioner.*

MAINE DISTRICT, *U. S. circuit court.*

CYRIL C. TYLER and WIFE
vs. } In equity.
GEORGE N. BLACK.

Plaintiffs' direct interrogatories to Roswell Silsby.

Interrogatories to be propounded to Roswell Silsbee, a witness to be produced, sworn, and examined on behalf of said complainants.

1. What is your age; where do you reside; what is your occupation; how long have you been engaged in lumbering, and in what capacities have you been so engaged; have you been in the habit of scaling lumber; if so, to what extent?

2. Do you know either of the parties to this suit, and how long have you known them; what has been the business of said Black for the last ten or fifteen years; is he, or not, well acquainted with lumbering business, and the value of timber lands?

3. Do you know any thing of a lottery lot of land in township No. 33, in the middle division in Hancock county, sometimes called Tilden, which lot is numbered one on the plan of said township, as containing

1,920 acres; if so, how long have you known said lot; how near have you resided to said lot, and what opportunities, prior to July, 1848, have you had to know any thing about it; how many times, prior to July, 1848, have you been on to said township, and particularly on said lottery lot, and when? Please state as nearly as you can.

4. Did you or not, in July, 1848, make a particular examination of said lottery lot, in company with Benjamin Dyer? If so, please to state the nature and extent of said examination, and your mode of making the same; where did you begin; how did you proceed; where did you end? State each in the order of time. Was or not your mode of examining it such that you could obtain a full and accurate knowledge, or a just estimate of the kinds, quantity, quality of pine, spruce, hemlock, and other timber and wood on said lot; the nature of the soil; the streams which pass through or near said lot; and, generally, the facilities for getting off said timber and wood, and driving the same to market? If so, please to state as to each subject of inquiry fully and particularly, and especially as to your estimate of the quantity and quality of various kinds of lumber on said lot.

5. Please to state whether you and Dyer, in making said examination, formed your opinions separately as to the matters inquired about in the last interrogatory, or any of them, with a view to determine the price or value of said timber or land per acre; and what, in your opinion, is said land and timber worth by the acre. What was the reputed value of said lottery lot per acre in 1846, in the neighborhood of said lot; was it or not well known as a valuable timber tract at that time; is or not said lot of greater value than the average of lots in said township; How much stumpage would you be willing to pay per M for a permit to cut pine lumber on the east and west miles of said lottery lot? How many feet of pine lumber is there, in your opinion, within those limits, worth that stumpage?

6. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or any of them; or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

BANGOR, *Aug.* 23, 1848. FRED. HOBBS,
Solicitor for complainants.

Defendant's cross interrogatories to Roswell Silsby.

DISTRICT OF MAINE, *ss:*
Circuit court, U. S.

CYRIL C. TYLER et UX. vs. GEORGE N. BLACK. } In equity.

Cross interrogatories to be propounded to Roswell Silsbee, aforesaid.

1st cross interrogatory. Are you acquainted with Addison Dodge, Ebenezer Morrison, and Joseph Delaittre; are they men of judgment

and integrity; would you not rely upon their estimates of timber, and opinion of timber lands?

2d cross interrogatory. If you wished to procure an estimate of the value of a tract of timber land upon which you could rely, which would you choose to make it, said Dodge or Benjamin Dyer?

3d cross interrogatory. What townships have you ever explored, and when; how much have you explored with said Dodge?

4th cross interrogatory. What instruments did you have when you explored said lottery lot with said Dyer; did you use a chain or a tape measure; how many of you were then in the company; did you find Dodge's marks, made by him when he run out the lot; were the lines run out and marked by him correct; did the lines as run by Dyer, vary from those of Dodge; if so, in what part of the lot, and to what extent; what other lines and marks did you find, save those made by Dodge?

5th cross interrogatory. How much burnt land did you find on said lottery lot, and in what part of the same was it; how much hard wood land, and where?

6th cross interrogatory. What is said township worth per acre; is it, in your opinion, worth what Col. Black paid for it?

7th cross interrogatory. What relationship does David Silsbee bear to you; is he not older than you; has he not had more experience as an explorer; is he not a man to be relied upon in the highest degree as an explorer?

8th cross interrogatory. If, in answer to the 5th direct interrogatory, you have undertaken to state the "reputed value of said lottery lot per acre in the year 1846, in the neighborhood of said lot," name every person whom you have heard state that reputed value, and upon what that reputed value was based; and if you have said that it was well known as a valuable timber tract at that time, please state every person who knew it to be such, and his means of knowledge, in full. What acquaintance have you with the other lots in said township; when, and how thoroughly did you explore them?

June 30, 1849. ROWE & BARTLETT,
Defendant's solicitors.

Ros. Silsbee's answers to plaintiffs' direct interrogatories.

Roswell Silsbee, a witness named in the foregoing interrogatories, being before me on behalf of the complainant, answers to the same as follows, viz:

1. To the first interrogatory he answers:

I am 49 years old; I reside in Aurora, in the county of Hancock, and State of Maine; I am a farmer and lumberman by occupation, farming in summer, and lumbering in winter; I have been engaged in lumbering ever since I was 17 years of age; I have been engaged in cutting and hauling lumber, and also in exploring lands for lumber; I have scaled lumber for other people two winters, for two or three six-ox teams each winter; the quantities I don't recollect.

2. To the second interrogatory he answers:

I know George N. Black; don't know the other parties; have known him from a child; his business has been in lumbering; he has acted as agent under his father, or transacted business under him also; his father is agent for owners of the Bingham purchase, and owns timber lands himself, and has carried on business in lumbering for 40 years; his son for 10 or 15 years has acted for him; George also has done much lumbering on his own account; he is well acquainted with said business, and with the value of timber lands; I consider him so from my knowledge of him, and of his opportunities.

3. To the third interrogatory he answers:

I know about the lot mentioned; I have known it by personal examination since July, 1848; I went on to it, I think, on the 18th day of said July; I knew there was such a lot there, and of people going on to it before, and have heard about it often, but had no personal knowledge of it till the time mentioned; I reside within about ten miles of the lot; I have been on said township a great many times before said date; I could not tell how many; I can't tell the times when I have been on it; I can't answer this more fully.

4. To the fourth interrogatory he answers:

I did, in July, 1848, make a particular examination of the lot with said Dyer; I begun on the southwest corner, went on or near the line north across the lot one mile to the northwest corner; I went off from the line, and made the examination so as to embrace an extent of 60 or 70 rods from the line inwards along the whole distance; this extent or width I examined carefully and particularly. From the northwest corner I went east, keeping the direction of the line, and examining as great an extent along the whole distance as on the other line, and with as much particularity, and care, and attention, and went to the northeast corner; from thence I went south to the southeast corner one mile, examining the tract in the same manner and about the same portion of it as before on the other lines; thence to the southwest corner, examining in the same way and about the same distance from the line; from this corner I struck off a little east of north into the tract about a third of a mile; thence went east nearly across the lot, examining as I went a space of 70 or 80 rods in width; thence north again about a third of the distance across the lot; thence northwest about a mile on the tract; thence southwesterly across the whole lot to the west line, examining, as we went in all these courses, about the same width of ground as before stated; thence to the southwest corner, and left the lot. I was on the tract, travelling and examining it, six entire days, exclusive of the time to go and come to and from it. We climbed trees, a great many; and, during the time, we must have travelled over nearly the whole of it, the lot. We did all we could to get a full and accurate knowledge on all the points inquired about, and staid on it as long as we thought it necessary, in order to inform ourselves fully. I think we did obtain a full and accurate knowledge on all said points. We estimated that there *was* three million feet of first quality or of good pine timber, worth fifteen shillings per thousand; of spruce, five hundred

thousand feet, worth fifty cents per thousand; of hemlock, eight hundred thousand, which we didn't estimate as worth anything. We didn't make any estimate of the quantity or value of other timber or wood, though there was a good deal of cedar and hard wood. The quality of the hemlock was very good. The soil is generally rather poor.

Dead stream passes within 98 rods from the southwest corner; from there it bends round in an easterly direction, and runs for most of the distance about southeasterly at an average distance of about a mile from the line of the lot; no, it is about a mile from the middle of the south line to said stream, but afterwards the distance is greater.

The main branch of Union river passes near the east end of the lot; the northeast corner being about half a mile from the river, and the southeast corner about a third of a mile.

These are all the streams near it which could float lumber. The greatest distance to haul to the stream or river could not be over 2 miles. I consider the facilities for getting off timber from the lot very fair.

5. To the fifth interrogatory he answers:

We formed our opinions upon our own separate calculations, then compared our opinions, and finally agreed as to the matters spoken of; there was but very little difference in the separate results to which we came; as to the quantities and qualities of the timber, our calculations were made in order to determine the price or value of the timber and the land per acre. I consider the land worth four dollars per acre for the timber; I should be willing to pay that for it; I don't know its reputed value in 1846 in the neighborhood; don't recollect hearing a value set upon it; it was then well known by some as a valuable timber tract; I should think it was of greater value than the average of lots on the township; I should be willing to pay fifteen shillings stumpage to go on to any part of the lot; I don't know that it would be worth much more on the miles mentioned than on the rest of it; perhaps it might a little more on the east mile. The two miles mentioned would include about two-thirds of the timber I have estimated as being on the lot, and all of it is worth the stumpage mentioned.

6. To the sixth interrogatory he answers:

I don't think of anything more than I have already stated, which I suppose would have any importance in this case.

Ros. Silsbee's answers to defendant's cross interrogatories.

Being next examined on the cross interrogatories he answers as follows:

1. To the first cross interrogatory he answers:

I am well acquainted with Dodge and Morrison, and some with Dellaittre; I should think they were men of judgment and integrity; I should rely upon their estimate of timber and opinion of timber lands; I have explored lands with Dodge; our estimates seldom differed; I have never compared any estimates of Morrison's with mine on the same lands, nor of Dellaittre's.

2. To the second cross interrogatory he answers:

I should consider both of them good and competent judges; I don't know that I should have any choice between them.

3. To the third cross interrogatory he answers:

I have explored townships twenty-eight and twenty-two, Bingham's purchase; also twenty-seven; also part of twenty-one and part of thirty-three; also twenty and thirty-two. I explored twenty-eight in the year 1835; I can't state the particular years in which I explored the others. It is thirty years since I first commenced exploring; there have been two or three years when I did not explore; since that, I explored with said Dodge the east half of twenty-two; I have been out with him also running land, but the above is all the exploring I have done with him; we were employed on said tract about a week together.

4. To the fourth cross interrogatory he answers:

We used a tape line; we found the lines all run and spotted; we only had to measure in order to find two corners, which we could not strike without; there were only Dyer and I. We did find Dodge's marks; the lines run and marked by him, I should think, were generally correct; we measured the east line; we also measured one mile on the north line; not finding the corner at first, we went back to the two-mile mark on the north line, and measured from there one mile east, and found Dodge's line, but did not find his corner. We found all the other corners; from the north line, on the east line of the lot, we went south, and found that Dodge's line lacked a few rods of a mile; I believe that Dyer's line did not vary from Dodge's, otherwise than I have said; we followed Dodge's whenever we found his marks. We found no other lines than Dodge's, and no other marks, except the casual cuts which people had made on trees, when they were exploring or going over the land.

5. To the fifth cross interrogatory he answers:

I should think between two and three hundred acres burnt; the largest portion was near the southwest part; the rest of it was a strip running along near the east mile and the middle mile; there were other little spots, which I can't remember the location of; I should think there were 300 acres where the prevailing growth was hard wood; some of it is mixed in with hemlock, and pine, and spruce; it was in three places; the largest was near the northwest corner; another was near the northeast corner, pretty well mixed with hemlock, pine, and spruce; the other was on the south line.

6. To the sixth cross interrogatory he answers:

I should think the township was worth what Col. Black paid, which I believe was fifteen shillings per acre.

7. To the seventh cross interrogatory he answers:

Said David is my brother; he is older than I; I think he has not had so much experience as an explorer as I have; I think there are men of better judgment than he as to timber, but I consider him a fair judge; he would give an honest opinion.

8. To the eighth cross interrogatory he answers:

I have not stated its reputed value at that time in the neighborhood.

thousand feet, worth fifty cents per thousand; of hemlock, eight hundred thousand, which we didn't estimate as worth anything. We didn't make any estimate of the quantity or value of other timber or wood, though there was a good deal of cedar and hard wood. The quality of the hemlock was very good. The soil is generally rather poor.

Dead stream passes within 98 rods from the southwest corner; from there it bends round in an easterly direction, and runs for most of the distance about southeasterly at an average distance of about a mile from the line of the lot; no, it is about a mile from the middle of the south line to said stream, but afterwards the distance is greater.

The main branch of Union river passes near the east end of the lot; the northeast corner being about half a mile from the river, and the southeast corner about a third of a mile.

These are all the streams near it which could float lumber. The greatest distance to haul to the stream or river could not be over 2 miles. I consider the facilities for getting off timber from the lot very fair.

5. To the fifth interrogatory he answers:

We formed our opinions upon our own separate calculations, then compared our opinions, and finally agreed as to the matters spoken of; there was but very little difference in the separate results to which we came; as to the quantities and qualities of the timber, our calculations were made in order to determine the price or value of the timber and the land per acre. I consider the land worth four dollars per acre for the timber; I should be willing to pay that for it; I don't know its reputed value in 1846 in the neighborhood; don't recollect hearing a value set upon it; it was then well known by some as a valuable timber tract; I should think it was of greater value than the average of lots on the township; I should be willing to pay fifteen shillings stumpage to go on to any part of the lot; I don't know that it would be worth much more on the miles mentioned than on the rest of it; perhaps it might a little more on the east mile. The two miles mentioned would include about two-thirds of the timber I have estimated as being on the lot, and all of it is worth the stumpage mentioned.

6. To the sixth interrogatory he answers:

I don't think of anything more than I have already stated, which I suppose would have any importance in this case.

Ros. Silsbee's answers to defendant's cross interrogatories.

Being next examined on the cross interrogatories he answers as follows:

1. To the first cross interrogatory he answers:

I am well acquainted with Dodge and Morrison, and some with Dellaittre; I should think they were men of judgment and integrity; I should rely upon their estimate of timber and opinion of timber lands; I have explored lands with Dodge; our estimates seldom differed; I have never compared any estimates of Morrison's with mine on the same lands, nor of Dellaittre's.

2. To the second cross interrogatory he answers:

I should consider both of them good and competent judges; I don't know that I should have any choice between them.

3. To the third cross interrogatory he answers:

I have explored townships twenty-eight and twenty-two, Bingham's purchase; also twenty-seven; also part of twenty-one and part of thirty-three; also twenty and thirty-two. I explored twenty-eight in the year 1835; I can't state the particular years in which I explored the others. It is thirty years since I first commenced exploring; there have been two or three years when I did not explore; since that, I explored with said Dodge the east half of twenty-two; I have been out with him also running land, but the above is all the exploring I have done with him; we were employed on said tract about a week together.

4. To the fourth cross interrogatory he answers:

We used a tape line; we found the lines all run and spotted; we only had to measure in order to find two corners, which we could not strike without; there were only Dyer and I. We did find Dodge's marks; the lines run and marked by him, I should think, were generally correct; we measured the east line; we also measured one mile on the north line; not finding the corner at first, we went back to the two-mile mark on the north line, and measured from there one mile east, and found Dodge's line, but did not find his corner. We found all the other corners; from the north line, on the east line of the lot, we went south, and found that Dodge's line lacked a few rods of a mile; I believe that Dyer's line did not vary from Dodge's, otherwise than I have said; we followed Dodge's whenever we found his marks. We found no other lines than Dodge's, and no other marks, except the casual cuts which people had made on trees, when they were exploring or going over the land.

5. To the fifth cross interrogatory he answers:

I should think between two and three hundred acres burnt; the largest portion was near the southwest part; the rest of it was a strip running along near the east mile and the middle mile; there were other little spots, which I can't remember the location of; I should think there were 300 acres where the prevailing growth was hard wood; some of it is mixed in with hemlock, and pine, and spruce; it was in three places; the largest was near the northwest corner; another was near the northeast corner, pretty well mixed with hemlock, pine, and spruce; the other was on the south line.

6. To the sixth cross interrogatory he answers:

I should think the township was worth what Col. Black paid, which I believe was fifteen shillings per acre.

7. To the seventh cross interrogatory he answers:

Said David is my brother; he is older than I; I think he has not had so much experience as an explorer as I have; I think there are men of better judgment than he as to timber, but I consider him a fair judge; he would give an honest opinion.

8. To the eighth cross interrogatory he answers:

I have not stated its reputed value at that time in the neighborhood.

George Foster, Eben Morrison, Sullivan Jordan, of Ellsworth, [and] Asa Foster, are persons who I think then knew it to be valuable; also I think William Hapworth and John B. Foster knew it to be so; I think they had then all been on the lot; I may be mistaken as to some of them having been on before or at that date; they have at some time, I believe, *had* been there; their means of knowing were their own examinations of the land; I can't state the extent or minuteness of the explorations of any of them; I have been on to the other lots, or some of them, a good many times to explore, and find places for lumbering; last fall I explored them two or three days; was on the town. a number of years ago with Reuben Dodge running some lines; have been on various portions of it, and over it, and over it in different directions, and at different times, which I couldn't particularize; I never explored said lots as thoroughly as this, but have always been familiar with them; I can't answer more particularly than I have.

ROSWELL SILSBY.

UNITED STATES OF AMERICA,
Maine district, ss:

I, Geo. B. Moody, a commissioner agreed upon by the counsel for the parties, hereby certify, that I caused to appear before me, at my office, in Bangor, in said district, Roswell Silsby, the said deponent, on the 23d day of July, A. D. 1849, who being first duly examined, cautioned, and sworn to testify the whole truth, answered in their order the foregoing interrogatories, which answers were reduced to writing by me in the presence of said deponent, and were afterwards subscribed and sworn to by him. No other person was present during the taking, and the witness was not allowed to see any interrogatory until the preceding was fully answered. The said deposition is taken in the case in equity, named at the beginning of the interrogatories, now pending in the circuit court of the United States, next to be holden at Portland, in said district, on the 23d of September, A. D. 1849.

GEO. B. MOODY,
Commissioner.

UNITED STATES DISTRICT COURT,
Maine district, ss:

CYRIL C. TYLER & WIFE
vs.
GEO. N. BLACK. } In equity.

Defendant's direct interrogatories to Addison Dodge, Eben'r Morrison, Jos. Delaitre.

Interrogatories to be administered to Addison Dodge, Ebenezer Morrison, and Joseph Delaitre, witnesses to be produced, sworn, and examined, in the above entitled cause, on behalf of the defendant.

First interrogatory. Please state your age, residence, and occupation; and whether you are or have been a scaler, surveyor, or lumberman.

Second interrogatory. If you have stated that you are, or have been, a surveyor of land, and scaler of logs, or a practical lumberman, please state when, where, how long, and how extensively, you have been so engaged, and whether or no your business and habits of life have led you to the examination of wild lands in your neighborhood, with a view of estimating their character and value.

Third. Have you recently made an examination of lot No. one, in township No. 33, Hancock county, known as the lottery lot in said township? If yea, please state them, in whose employ, in what capacity, who accompanied you, and the purpose of said examination.

Fourth. In what part of said township is said lot situated? Please describe its location, and state what part you first went on to; the direction you took; the character of the soil; the species, quantity, and quality of wood and timber, which you saw on each part of said lot; how many days you were employed in said examination; where you examined, each way, and whether or no you stayed till you had made a thorough examination. Did you make a thorough examination?

Fifth. Did you, at that time, run the lines of said lot? If yea, state particularly whether you found any, and if any, what traces of any previous running of said lines; whether you found any, and if any, how many, marked trees on said lot, or its lines, and how old said marks were; whether there were any, and what, traces of any recent survey of said lot?

Sixth. Whether or no your party would have been able, without the aid of the surveyor's instruments, to have found the two inner or back lines of said lot, and to have known, during said examination, whether you were at all times on this lot, or on land lying south or east of it?

Seventh. How much of said lot is burnt land; how much swamp; how much hard wood land; how much timber land; how much pine timber is there on said lot; how much of other kinds? Please estimate.

Eighth. What, in your opinion, is said lot worth per acre; did your said exploring party estimate its value, after completing said examination? If yea, please state what that estimate was; and what your estimate was, before consulting your companions on the subject.

Ninth. Is there or not a large berth of pine timber on this township, a short distance south of this said lot; how far from this lot is it; is there any such berth on this lot; if yea, where is it, and how extensive is it?

Tenth. How far is said lot from Union river, at the nearest point; how do you know the distance; are there any streams running through said lot large enough to float logs? Please describe all the streams on said lot.

Eleventh. Are you acquainted with George F. Foster and William

Hapworth, both of Amherst; what is the occupation of each of them; is either of them by profession a surveyor of land or a scaler of lumber; if yea, which of them, and how extensive has been his experience?

Interrogatory to Ebenezer Morrison and Joseph Delaitre.

Defendant's direct interrogatory to Ebenezer Morrison and Joseph Delaitre.

Have you fixed your name to a plan of said lot, made by Addison Dodge, shewing the result of your said survey and exploration; if yea, is said plan correct; are the streams correctly laid down on it; are the different kinds of land and wood and timber correctly and truly located on it; are the boundaries correct with reference to other objects on said township? If said plan is incorrect in any of said particulars, or in any other matter, please to state wherein it is incorrect.

Interrogatory to Ebenezer Morrison.

Defendant's direct interrogatory to Ebenezer Morrison.

Did you ever examine said lot prior to said Black's purchase of these complainants' interest in it? If yea, please to state when, for what purpose, the result of such examination, and the opinion which you then formed of its value, and if you say that you made such examination to ascertain whether it was an object to purchase it, state whether you made any effort afterwards to purchase it; and if not, why not.

Interrogatories to Addison Dodge.

Defendant's direct interrogatory to A. Dodge.

First. Have you made a plan of said lot, to ehow the results of your said survey and exploration; have Ebenezer Morrison and Joseph Delaitre affixed their names to it? If yea, please annex said plan, and state whether or no it is correct in all its details, in its boundaries, location of streams, of different kinds of soil, wood and timber, and objects laid down as situated on other parts of the township.

Second. Have you ever examined the records in Hancock county to ascertain in whom the title to said lot was vested; if yea, when, why, upon what information, with whom did you make said examination; how long were you so engaged; with what result; did you find any traces of such title; if yea, what?

Third. If you have stated that you made such examination in company with the defendant, Black, and that you discovered no trace of said title, please state what said Black did next in reference to such inquiry; whether or no he employed the register of deeds, Morgan, to make further search.

Fourth. By what name is said township, No. 33, designated on Greenleaf's maps, of the last edition; who traced the lines of this town-

ship originally, and how long ago was it; did you ever trace or run them out, or any part of them, prior to your survey herein first inquired about; if yea, when; what examination did you then make of said lottery lot; have you ever made any examination of it, except the one for the defendant herein before inquired of; if yea, when, why, and what was the result?

General interrogatory, all the witnesses.

Defendant's general interrogatory to A. Dodge et als.

Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

JAMES S. ROWE,
Solicitor for defendant.

UNITED STATES' CIRCUIT COURT, *Maine district.*

In chancery.

C. C. TYLER AND WIFE
vs.
GEORGE N. BLACK.

Plaintiffs' cross interrogatories to A. Dodge, E. Morrison, and J. Delaitre.

Cross interrogatories to be propounded to Addison Dodge, Ebenezer Morrison, and Joseph Delaitre.

First cross interrogatory. If you have said that you are or have been a scaler, surveyor, or lumberman, state for whom, principally, you have scaled, surveyed, or lumbered; in whose employ have you chiefly been, and how long have you been in said employment; have you not been some time, and how long, in the employment of the defendant, George N. Black, or his father, John Black; state for whom you have been employed for the last four or five years, and how long for each person?

Second cross interrogatory. Did you give the complainant or his solicitor any notice of your examination, or that you intended to make one, or had been requested to make one, of said lottery lot, or was it made ex parte and without notice to said complainants or their solicitor, and by request of said defendant, George N. Black?

Plaintiffs' cross interrogatory to A. Dodge.

Cross interrogatory to Addison Dodge.

Have you not been, and are you not now, interested with said George

N. Black in some of his lumber operations or land purchases; if so, when, how, and to what extent in each instance; if you have not been so interested openly, have you not been, and are you not now, confidentially so interested, directly or indirectly, verbally or in writing? State how.

Plaintiffs' cross interrogatory to E. Morrison.

Cross interrogatories to Ebenezer Morrison.

1. If you say you did make such examination with a view to purchase said lot, did you know in whom the title to said lot was before, or at the time, or after, and when after, said examination?

2. Did you not give up the idea of buying said lot because you could not find the person who owned it; were you told by any one, and by whom, who owned it; did you know that Joseph Tilden did not own it; was it not a matter of notoriety at Ellsworth that the said lottery lot was not owned by said Tilden, at or about the time when you made such examination for the purpose of buying it?

FREDERICK HOBBS,
Solicitor for complainant.

CIRCUIT COURT UNITED STATES.
Maine district, ss:

CYRIL C. TYLER AND WIFE
vs.
GEORGE N. BLACK. } In equity.

Defendant's additional direct interrogatories to A. Dodge.

Additional interrogatories to Addison Dodge, aforesaid.

1st additional interrogatory. Did you go with said Black, the defendant, to run out a lot of land on township No. 21, in July, 1848; what day of the month was it; at what time of the day did you leave home for said lot; how long before that had you engaged to go on that day; how long did you stop at Aurora, on your way to said township?

2d additional interrogatory. Did the defendant show you, on that day, a notice from Frederick Hobbs, esq., that an exploration of said lottery lot was to be made on the part of the complainants in this suit; did one Benjamin Dyer call upon you on that day, to go on and make the exploration with him; did he or not wish you to go for said complainants, and did he or not offer to pay you for going; were you at that time ready to start for said township No. 21?

3d additional interrogatory. State whether or not Colonel John Black has purchased the remainder of said township, save the lottery lot, from Tilden; if yea, when was it, and at what price per acre; how will said lottery lot compare in value with the rest of the township?

ROWE & BARTLETT,
Defendant's attorneys.

July 2, 1849.

Plaintiffs' additional cross interrogatories to A. Dodge.

Additional cross interrogatories to be propounded to Addison Dodge.

1st additional cross interrogatory. Was there any thing which made it indispensably necessary for you and said Black to go on to township No. 21, on that particular day; if so, what was it? State fully and carefully each circumstance which made it thus necessary.

2d additional cross interrogatory. If you say that said Dyer called on you, and requested you to go on to said township in behalf of Tyler and wife, state the precise language of said Dyer. What words did he use; did he not state that he was employed to go for one party, and wished Black to go, with some person, for himself, as the other party, that there might be a full and fair exploration of said lottery lot, with a view to ascertain or form a just estimate of its true value, or something to that effect; if you have said that Dyer offered to pay you for going, state what sum, if any, he offered you, and state the precise words of said Dyer in making said offer?

3d additional cross interrogatory. If you say Colonel Black has purchased the remainder of said township at a certain price, state how you know the facts of purchase and price; is not said township worth more than what Colonel Black is reported to have given for it; is not Colonel Black still living and residing at Ellsworth, Maine?

4th additional cross interrogatory. Do you know Roswell Silsby, of Aurora; if so, is he not a practical lumberman, and acquainted with the value of lumber and timber lands; should you not place confidence in his judgment or opinion of the character and value of timber and timber lands; if not, state why and wherein his judgment and opinion are not entitled to respect and confidence; do you know George F. Foster, of Aurora, and William Hapworth, of Mariaville, persons who have explored lottery lot No. 1, township No. 33; if so, are they not also practical lumbermen, and are not their opinions, respectively, entitled to confidence and respect as to the character and value of timber and timber lands; and if not, state wherein, respectively, they are, severally, not so entitled. Be particular.

5th additional cross interrogatory. Are you not now, or have you not been, in partnership or jointly interested, during the last ten years, or some part thereof, with the defendant, George N. Black, in supplying teams for lumber operations, or in some other way and business; if so, to what extent and in what way? State fully and particularly, in each instance, your joint transactions with said Black, for the last ten years.

FRED. HOBBS,
Solicitor for complainants.

CIRCUIT COURT OF THE UNITED STATES,
District of Maine, ss:

CYRIL C. TYLER and Wife
vs.
GEO. N. BLACK.

Addison Dodge's answers to defendant's direct interrogatories.

Answers of Addison Dodge to interrogatories propounded to him in the above cause on the part of the defendant.

First interrogatory, answers: That he is forty years of age; resides at Bluehill; is a scaler, surveyor, and follows lumbering for his own business.

Answer to 2d interrogatory. He states that he has done the surveying for the owners of the Bingham purchase since the year 1832, which, for the first five or six years, employed him nearly all the time; since that time he has been employed about 4 months each year; he has also been occasionally employed by others; he has scaled for Col. Black and others, for the last seven or eight years, 7 or 8 millions of feet annually; he commenced lumbering in the year 1840, and has had from two to nine teams in the business ever since on the Penobscot and Union rivers, and has hauled from one to four millions of feet per year. He has gone on to townships, in many instances, for Col. Black, when he was about selling, for the purpose of ascertaining the amount of the timber and value of the land, and has, when surveying townships, noted the quantity of timber.

Answer to third interrogatory. He says he has recently made an examination of lot No. 1, in township No. 33, Hancock county, to run it out and ascertain the quantity of timber thereon. He was employed by George N. Black as a surveyor, and was accompanied by Ebenezer Morrison and Joseph Delaitre; this was in the spring of 1848.

Answer to 4th interrogatory. The lot is situated on the northwest part of the township; he first went on to the west part of it, on the north line, and run round a mile square, and examined that; he then run another mile square next east, and then still another, making three square miles, which he examined; about one-half of the whole was hard wood land, the land rocky and soil middling good; the half of the remainder was burnt and swampy land, and small bushes had grown up; the rest bears some pine and is generally pine land, and the eastern part of it has been culled. He was employed with Morrison and Delaitre about a week, and made a thorough examination.

Answer to 5th interrogatory. He run the lines of said lot and found no traces of lines except the lines of the township; he found a stake on the north line of the township and eastern part of the lot, marked G. Foster, but no marked trees on the lot, nor recent or any survey except the town lines.

Answer to 6th interrogatory. He answers, that they could not have known the plan of the south and east lines of the lot without instruments.

Answer to 7th interrogatory. The first part of this question has been answered in the former answer. He states that he estimates the pine at 200 M, and the spruce at 50 M.

Answer to 8th interrogatory. It is worth 50 cents per acre; the party

estimated the value after the examination; Morrison marked, he thinks, 45 cents, and Delaitre 57 cts.

Answer to 9th interrogatory. There is a large berth of timber south of the south line of the lot; there is no such berth on the lot; nothing like it.

Answer to the 10th interrogatory. The highest place on the lot to Union river is one hundred and sixteen rods, by his measurement. There is no stream running through said lot large enough to float logs.

Answer to 11th interrogatory. He is acquainted with Geo. F. Foster and Wm. Hapworth; the latter is a farmer, and has logged in the winter with his own team; neither of them is a scaler or surveyor by profession. Foster hunts in the winter.

Addison Dodge's further answers to defendant's direct interrogatories.

Further interrogatories by defendant.

First. He has made a plan of the exploration, and Morrison and Delaitre have put their names to it. It is correct in its details, in its boundaries, location of streams, wood and timber, and other things thereon stated.

Second. He has examined the records; it was in April, 1846; the defendant wished to ascertain who was the owner; Benjamin Stinchfield gave information that there was a lot in that part of the town.; it was done with Geo. N. Black; a half day was spent in the examination, and no conveyance was found from the original drawer.

Third. The defendant employed Morgan, the register, to make further search.

Fourth. It was called on the map the Tilden township. He does not know who originally traced the lines. He traced the township lines 8 or 10 years ago. He made no examination of the lottery lot then, nor since, except as above stated.

General interrogatory. He knows nothing further.

A. Dodge's answers to plaintiffs' cross interrogatories.

Cross interrogatories.

First. The witness refers to his answer to the second interrogatory for his answer to this. He has surveyed some townships for Colonel Black, and done some other surveying for him.

Second. He gave no notice.

Third. The witness says he, with the defendant, purchased the south part of township No. 27, about four years ago, and they have lumbered on the same since that time. They have been engaged in lumbering together for nine years. He is not interested with him in any other land speculations.

A. Dodge's answers to defendant's additional interrogatories.

Additional interrogatories.

1st. He did go with the defendant, on or about the 13th July, 1848,

to township No. 21; left Ellsworth, he thinks, some time in the forenoon. He had engaged to go a day or two before on that day, and they did not stop there long; he cannot recollect now.

2d. The defendant did show him a letter from Mr. Hobbs, giving him notice that Benjamin Dyer was to explore the lottery lot with Mr. Silsby. Dyer never called on the witness to go, nor does he know that there was a wish that he should go for the complainants. The letter was shown him about the time they were ready to go up the river.

3d. He has purchased the lot of Mr. Tilden at a sum between two dollars and two dollars and fifty cents, the witness does not certainly recollect. The township is worth four times as much an acre as the lottery lot.

A. Dodge's answers to plaintiffs' additional cross interrogatories.

Additional interrogatories.

1st. The supreme court was then sitting in Ellsworth, and there was an action, Ingersoll vs. Mall, for trial, and it was necessary to run certain lines, to show that the trespass, on account of which the action was brought, was upon the lands of said Ingersoll.

2d. He had no conversation with Dyer whatever.

3d. He does not know, except from Col. Black, what was given for the township No. 33. He does not think the township was worth so much as Col. Black is reported to have given for it. Col. Black is still living at Ellsworth.

4th. He is acquainted with Roswell Silsby; he lumbers some with his own team, and hauls for others. Silsby is an honest man, and would express his opinion fairly; he has not so much experience in regard to timber lands as some others. He refers to the 11th direct interrogatory for facts in regard to Foster and Hapworth. He should place no confidence in the judgment of either of them as to the value of timber lands. Hapworth knows but little about timber and the woods, and no confidence is to be placed in Foster.

5th. We refer to the answer to the third cross interrogatory.

ADDISON DODGE.

Taken by consent, and sworn to before—

WM. ABBOTT,
Justice of the peace.

[For plat see original, pages 176 and 177.]

CIRCUIT COURT, UNITED STATES,
District of Maine, ss:

CYRIL C. TYLER and UX.
vs.
GEO. N. BLACK. } In equity.

Eben'r Morrison's answers to defendant's direct interrogatories.

Answers of Ebenezer Morrison to interrogatories propounded to him in the above cause on the part of the defendant.

1st interrogatory. I am fifty-five years of age, and reside in Ellsworth. Lumbering is my principal business. I have a farm. I have been a scaler of logs, more or less, for nearly thirty years. I am not a surveyor of land, but have been a good deal employed as chainman.

2d. I refer to the above answer, as an answer in part to this. I carried on the mills now owned by Col. Black in sawing lumber, from the year 1816 to the year 1824. From that time to the present I have been engaged chiefly in cutting, hauling, and running logs. I have been required to find berths of timber, and to ascertain whether there was sufficient to employ teams for the season, and I have employed from one to four teams, except for two winters, of my own, and I have explored lands where contracts for sale were about to be made.

3d. In the winter of 1848 I was employed by Geo. N. Black to explore the lottery lot, in township No. 33, in company of Addison Dodge, Joseph Delaitre, and John Langdon. I acted as chainman. The object was to run out the lot and ascertain its value.

4th. The lot is situated on the northwest corner of the township. We run the lot, commencing at the northwest corner, and run out a square mile, and then run round the other two square miles. On the north part of the lot the growth is hard wood, until you reach within half a mile of the east line; then you come to land which is swampy and heath. I would refer to the plan made by Addison Dodge, and annexed to his deposition, for a particular description of the growth upon the land. The hard wood is rocky land, and the burnt land was of the same description. We were six days employed in exploring the land, and it was done as faithfully as I should have done were I about to sell or purchase the same.

5th. We run the lines of said lot. We found no trace of any lines, except the exterior lines of the township. We found no lines on the lot except on the exterior lines of the township, but found on the lot some spotted trees. The spots were old, and I saw one or two spots of two years. We found no traces of a recent survey.

6th. Of course we could not tell where the east or south line of the lot was without a compass and chain.

7th. About one-fourth part of the lot was burnt land and swamp, about one-half hard wood, and the rest pine and other soft wood. There might be two hundred and fifty thousand of good timber. There may be three or four hundred thousand feet of a poor quality of pine and of spruce timber on the lot.

8th. I valued the land worth forty-five cents per acre. We marked separately, and then agreed to call it fifty cents per acre.

9th. There is a good berth of pine timber south of the south line of the lot. I cannot say how far south it is, but should judge it a half mile. There is no such berth on the lot that I could find.

10th. The distance from the main west branch of Union river to the nearest point of the lot is one hundred and sixteen rods. There is no stream large enough to float logs running through said lot.

11th. I am acquainted with them. I think Foster has scaled some logs, but how many I cannot say. Hapworth is not a scaler of logs. Neither of them is a surveyor of land. I put my name to the plan, and I think the minutes thereon are correct, and that the streams are correctly laid down thereon, and the boundaries of the lot are correct in regard to other objects.

E. Morrison's answer to defendant's special interrogatory.

Special interrogatory.

Many years ago I went on to the land to ascertain if it was an object to purchase it, and I satisfied myself that it was not.

General interrogatory.

I know nothing further.

E. Morrison's answers to plaintiffs' cross interrogatories.

Cross interrogatories.

1st. My lumbering has been chiefly in connexion with Col. Black; I have done very little with Geo. N. Black.

2d. I gave no notice to any one; I was employed by the defendant.

Additional interrogatories.

1st. I did not ascertain who was the owner.

2d. I never made any effort to find the owner; I did not want the land; I did not think it was generally known at Ellsworth that Tilden did not own the lot.

EBEN MORRISON.

Taken by consent, and sworn to before—

WILLIAM ABBOTT,
Justice of the peace.

CIRCUIT COURT, U. S.,
District of Maine, ss:

CYRIL C. TYLER & UX.
vs.
GEO. N. BLACK.

Jos. Delaitre's answers to defendant's direct interrogatories.

Answers of Joseph Delaitre to interrogatories propounded to him in the above cause on the part of the defendant.

1st. I am forty years of age next May, and I reside in Ellsworth; I

have been employed in lumbering business, such as logging and sawing, for about fifteen years; I have been neither a scaler or surveyor.

2d. I refer to the above answer as in part answering this interrogatory; I have had considerable experience in visiting timber lands for the purpose of locating teams, and determining the quantity of timber which stood on the berth, as it may be called, for a winter's work, and I have found myself able to determine the quantity of timber on the berth pretty accurately; for six years past I have been employed in locating teams for Col. Black; and previous to that time, for five years, I have located teams on Penobscot waters.

3d. A year ago last January I explored that lot, being employed by the defendant, and in company of Addison Dodge and Ebenezer Morrison, for the purpose of ascertaining the value of the land.

4th. The lot is situated on the northwest corner of the township, and we commenced on the northwest corner of the township and lot; we run east one mile, and then south one mile and west one mile, and then run out the square mile adjoining on the east, and then the third mile square; we then examined the square miles in the order we run them out; the first mile was chiefly hard wood; there was some burnt land and bushes on the southerly part, and a small quantity of pine on the southeast corner of this mile; on the second mile the north part was hard wood, narrowing as we proceeded east; there is a parcel of heath west of the brook, and on the brook some as good pine timber as we saw any where; the rest of the mile was burnt land and cedar swamp; on the last mile the hard wood extended almost to the northeast corner, and there was also a hard wood ridge on the south part, leaving a valley between composed of a hemlock growth and a few scattering pine; there was a small heath; the pine had been cut off the east side of the lot; we were engaged in exploring about one week, and made a thorough exploration of the land; the soil of the hard wood land was rocky and rather uneven; the other part was more free from rocks, but low land.

5th. We run the lines of the lot; we found no traces of any previous running, except on the exterior lines of the township; we found some old marks on trees on the lot, but no line; we thought them quite old marks; we found no traces of any recent survey.

6th. We could not have determined with any certainty where the east and south lines of the lot would fall, without instruments, or some mode of ascertaining courses and distances.

7th. About one-quarter part of the lot would be burnt land and swamp, one-half hard wood, and the rest pine, spruce, and hemlock; the pine timber worth hauling, in my opinion, would not exceed three hundred thousand feet; there was very little spruce scattering, and the hemlock would be worth nothing.

8th. My own opinion was, that the lot was worth fifty-two cents per acre; after the exploration was made, we figured separately, and finally agreed that the land was worth fifty cents per acre.

9th. There is a large berth of pine timber on said township, south of

this lot; I worked there last winter with Col. Black's team; we did not cut any timber within about eighty rods of the south line of the ticket lot, but there was timber pretty much up to it; there is not any such berth of timber on the ticket lot.

10th. We measured from near the southeast corner of the lot, and found it one hundred and sixteen rods; there is not any stream running through said lot large enough to float logs; there is no stream of any size, except a small brook on the second mile.

11th. I am some acquainted with George F. Foster, but not with Wm. Hapworth; I have not known said Foster as a scaler or surveyor; he does something at farming, and of late years has been engaged in hunting; he has been engaged heretofore somewhat in logging, and his opinion ought to be middling good. I have subscribed my name upon said plan, and the minutes upon the plan agree with the facts which came within my knowledge during the exploration; the plan I believe to be correct in regard to other objects on said township; the streams are laid down correctly.

To the general interrogatory, I answer that I know nothing further.

Jos. Delaitre's answers to plaintiffs' cross interrogatories.

Answers to the cross interrogatories.

1st. I refer to the second direct interrogatory, and my answer thereto, as an answer in part to this; I have never been in the employ of George N. Black.

2d. I gave no notice that I was about to explore the lottery lot to the complainants or to Mr. Hobbs, nor was any person present at the exploration on their behalf; it was made at the request of Geo. N. Black.

JOSEPH DELATE.

Taken by consent, and sworn to before Wm. Abbott, justice of the peace.

CIRCUIT COURT, U. S.,
Maine district, ss:

CYRIL C. TYLER and Wife
vs.
GEO. N. BLACK. } In equity.

Interrogatories to be propounded to Francis B. Morgan, a witness to be examined on the part of said defendant.

Defendant's direct interrog. to Francis B. Morgan.

1st interrogatory. Are you or have you been register of deeds for the county of Hancock? If yea, during what time.

2d interrogatory. Were you employed at any time by said defendant to make an examination of the records in your said office relative to

the title of lottery lot No. 1, in township 33, now Tilden; if yea, when; what was the result of such examination; did you give him a written statement of such result; if yea, please annex it, or a copy of it, to your answer; did or not said writing contain a statement of all you had discovered on said records relative to said title; had or not said defendant, Black, made a personal examination of said records previous to his employing you; if yea, how long previous?

3d interrogatory. When did you first learn the existence of a deed from Zenas Parsons to Dr. Putnam, conveying a part of said lottery lot; was it or not before the deed of said Tyler and wife to said Black was left to be recorded?

4th interrogatory. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in said cause? If yea, set forth the same fully and at large in your answer hereto.

July 3d, 1849.

ROWE & BARTLETT,
Defendant's solicitors.

Cross interrogatories to be propounded to Francis B. Morgan.

Plaintiffs' cross interrog. to F. B. Morgan.

1st cross interrogatory. How long have you been register of deeds for Hancock county?

2d cross interrogatory. How many volumes of records are there in said registry; are there not plainly written indexes of said volumes; and how many volumes of indexes, if more than one, are there; and what is their size?

3d cross interrogatory. Cannot any one, accustomed to examine titles, readily find the names of each grantor and grantee in said indexes?

4th cross interrogatory. If you say said Black made a personal examination prior to yours, how do you know that he made it relative to said title; and do you know that he did not make one subsequent to your certificate, and prior to your certificate, and prior to Nov., 1846?

5th cross interrogatory. Did not said Black request you to examine said records relative to a deed from Elizabeth Sheldon to Joseph Tilden, of Boston, only, and not as to any conveyances from Zenas Parsons; and if he had requested you to examine said registry as to any conveyances from said Zenas Parsons, would you not have found the same, if upon record; if you had been requested by said Black to have examined said registry as to the title to lottery lot No. 1, township No. 33, and had discovered the name of Zenas Parsons as connected therewith, should you not have further examined to see if said Parsons had conveyed to any one; did you, in fact, look for record of deed from Zenas Parsons? If you had examined and failed to find

such record of deed from Zenas Parsons, would not your certificate have set forth the fact; is not there a record of deed of said lottery lot, or part thereof, from Zenas Parsons to Aaron Putnam, to be found in book No. 8, page 248, of said registry; and when was the same recorded?

July 26, 1849.

FRED. HOBBS,
Solicitor for complainants.

F. B. Morgan's answer to defendant's direct interrog.

I, Francis B. Morgan, of Ellsworth, in the county of Hancock, in answer to the foregoing interrogatories and cross interrogatories, on oath, do testify, depose, and say:

To the first interrogatory I answer: That I am register of deeds for said county of Hancock, and that I have held the office since Dec., 1831.

To the second interrogatory I answer: That I was employed by said defendant to make an examination of the records in my office relative to ticket lot No. 1, in township No. 33, now Tilden. By refreshing my recollection by my books, it appears to have been in April 24, 1846, or about that time, as at that time I charged in my day book defendant for that service. As to the result of the examination I do not distinctly recollect, independently of a memorandum or certificate which I recollect sending to defendant, and which is hereto annexed, marked A G H. I presume that this memorandum contains all that I have discovered at that time relative to said title, as in the course of my business I always intend to state in such memoranda the state of the title so far as I can discover it. Defendant made a personal examination of the records the same day he employed me, and previous thereto.

A G H.

Elizabeth Sheldon to Joseph Tildon of Boston.

Warrantee deed of 708 acres of land, being an undivided part and parcel of lot No. 1, in township 33, M division, said lot being drawn by ticket No. 187, held by Zenas Parsons, deed dated July 22d, 1829. Recorded in book 53, page 353.

F. B. MORGAN.

Tilden paid $118 00: 17 cts per acre.

To the third interrogatory I answer: That I first learned of the existence of the record of the deed from Zenas Parsons to Aaron Putnam subsequently to said examination, but I cannot say when; I cannot be positive as to the time when I discovered said record, but I have an impression it was before the deed from Tyler and wife to respondent was left to be recorded; I have nothing, to my knowledge, whereby I can determine the time.

To the fourth interrogatory I answer: That I do not know, nor can I set forth, any other matter or thing which may be, in my opinion, of benefit or advantage to the parties at issue in this cause, or either of them; or that may be, in my opinion, material to the subject of this my examination, or the matters in question in said cause; except that, by examination this day made, I find that the entries of said deed in the index stand thus: "Grantors, Vol. 8th continued; Parsons, Zenas, to Aaron Putnam, 248. Grantees, Vol. 8th; Putnam, Aaron, from Zenas Parsons, 284." No deed from said Parsons to said Putnam is recorded in said book 8, page 284. This error in the index I first noticed to-day, while this deposition was in process.

F. B. Morgan's answers to plaintiffs' cross interrogatories.

To the first cross interrogatory I answer by reference to my answer to the first interrogatory in chief.

To the second cross interrogatory I answer: That there are eighty-six volumes of records in the registry of deeds for Hancock county; there are plainly written indexes of said volumes; there are three bound volumes, of several hundred pages each, containing indexes of all the volumes which are filled with records; each unfinished volume has a pamphlet index, of which there are now two.

To the third cross interrogatory I answer: Yes; there is nothing usually to hinder, that I know of, and the name of each grantor and grantee can generally be found, unless there is some mistake; I presume the indexes are as correct as is usual in such cases; by an examination of them this day, I find the index incorrect, as stated in my answer to the fourth interrogatory in chief.

To the fourth cross interrogatory I answer: That I do not know positively, but my recollection is, that he requested me to examine relative to the same matter which he had examined while he was in my office at that time; and I do not know whether defendant did or did not make any other examination subsequently to my certificate annexed, or prior thereto, or prior to Nov., 1846, than that made at the time referred to in my answer to the second interrogatory in chief.

To the fifth cross interrogatory I answer: That I remember that defendant requested me to make an examination, and from the entry by me made in my day-book, charging him for examination in this matter, dated April 24, 1846, I have no doubt that he requested me to examine the records, not only relative to the deed of Elizabeth Sheldon to Joseph Tilden, but also as to the conveyances from Zenas Parsons, for I charged him for examining records for both, viz: deed of Sheldon to Tilden, and for conveyances by Zenas Parsons; it is possible that, though requested to examine for deeds or conveyances from Parsons, I may have overlooked this deed upon the record; and, from the certificate and record, I most probably did so overlook the record of deed of Parsons to Putnam; if I had been requested by said defendant to have examined said registry as to title to lottery lot No. 1, in town-

ship No. 33, and had discovered the name of Zenas Parsons as connected therewith, I should probably have examined further, to see if Parsons had made conveyances to any one, as I always endeavor to make such examinations as thoroughly as possible. In fact, so far as my recollection goes, I did examine for such conveyances by Parsons. I might have made such examination, and not have mentioned it in my memorandum; I usually state in such memoranda or certificates what I do find, not what I do not find; though I might, if I thought it material, mention what I could not find. There is a record of a deed of said lottery lot, or a part thereof, from Zenas Parsons to Aaron Putnam, to be found in book No. 8, page 248, of said registry; I do not know, except by what is written in the records, when it was recorded.

Deponent wishes to explain his answer to the third cross interrogatory, by stating that in indexes, volumes 1 and 2, the name of each grantor and grantee, where there are several grantors and grantees in one deed, does not usually appear, but such deeds are usually indexed in the name of the first grantor or grantee, and therefore the name of each grantor or grantee cannot be found generally in such cases thereon.

And further the deponent saith not.

F. B. MORGAN.

DISTRICT OF MAINE,
County of Hancock, ss:

By virtue of the foregoing interrogatories, at the request and by the agreement of the counsel in this suit, on the eighteenth and twentieth days of July, A. D. 1849, I have caused Francis B. Morgan, the deponent therein named, to come before me, George Herbert, a justice of the peace within and for said county, at the office of the register of deeds in Ellsworth, in said county; and I have carefully examined him, the said deponent, upon the interrogatories and cross interrogatories annexed, he having been first duly and carefully cautioned and sworn to testify the whole truth; and I have reduced the same to writing, and caused the said deponent to subscribe the same in my presence; and I afterwards did swear him to the truth thereof; the same being taken to be used in a suit in equity now pending in the circuit court of the United States, for the eastern circuit, next to be holden at Portland, within and for the district of Maine, on the first day of October next, wherein Cyril C. Tyler and wife are plaintiffs, and George N. Black is defendant. This being a suit in equity, is the cause of taking this deposition.

GEO. HERBERT,
Justice of the peace.

CIRCUIT COURT, UNITED STATES,
Maine district, ss:

CYRIL C. TYLER and WIFE
vs.
GEO. N. BLACK.
} In equity.

Interrogatories to be propounded to Cyrus Goss, a witness to be examined on the part of said defendant.

Defendant's direct interrogatories to Cyrus Goss.

Interrogatory 1. State whether or not Benjamin Dyer has ever explored timber land for you. Did he or not explore towns. No. 3, in range 13, west from the east line of the State; if yea, when and with whom; were any, and if any what, estimates made of the quantity of timber on said township by such explorers?

Interrogatory 2. Were any certificates made by said Dyer, and those who accompanied him, relative to the result of said exploration? If yea, please annex them, if in your power to do so; if not, please annex copies.

Interrogatory 3. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them; or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

ROWE & BARTLETT,
Solicitors for defendants.

July 5, 1849.

Plaintiffs' cross interrogatories to Cyrus Goss.

Cross interrogatories to Cyrus Goss.

1st cross interrogatory. Did said Dyer, in said certificate or estimate of the quantity of said timber as inquired for, undertake to describe the quality of said timber; do you know that there was not on said township, at the time of said exploration, the quantity of timber certified by said Dyer?

2d cross interrogatory. Have not the owners of said township operated thereon during and since the termination of that suit in equity, John Doggett vs. Emerson and als., as vendors thereof, in regard to the same; and have not said owners ascertained that said township would justify representations to said Doggett made by or through you, or those made by the agent of said owners in the sale thereof to said Doggett, and upon the faith of which said Doggett purchased; whether said representations were based on said Dyer's estimate, or otherwise?

3d cross interrogatory. Has not said Dyer been employed to explore timber lands for the State of Maine, and for sellers and buyers of timber lands since the date of said certificate, and is he not now so employed.

FRED. HOBBS,
Solicitor for complainants.

July 26, 1849.

UNITED STATES CIRCUIT COURT,
Maine district, ss:

CYRIL C. TYLER and UX
vs. } In equity.
GEO. N. BLACK.

Answers of Cyrus Goss to interrogatories propounded to him in the above cause on the part of the defendant.

Cyrus Goss's answer to defendant's direct interrogatory.

Answer to 1st interrogatory. In the spring of the year 1835, Hazen Mitchell and myself agreed to engage some persons to go on and explore said township, and Hazen Mitchell wrote to John Towle, and requested him to take some suitable man to assist him, and explore the township. Towle accordingly employed Benjamin Dyer and John Thomas, who explored the same, and said Towle made an estimate of the pine timber on the township, which he reduced to writing, and said Dyer made a certificate thereon that he fully concurred in opinion with said Towle in his estimate of the quantity of timber.

Answer to 2d interrog. There were certificates made by said Towle and Dyer, as stated in my answer to the first interrogatory, and also a certificate made by John Thomas. I have not the originals in my possession, and have annexed papers, marked A and B, which I believe to be true copies.

Answer to 3d interrogatory. I know nothing further.

Cyrus Goss's answer to plaintiffs' cross interrogatories.

Answers to the cross interrogatories.

Answer to 1st. He did, and I refer to the certificate marked A; I do not know that there was not the quantity certified by Dyer.

2d. They have operated a part of the time during the pendency of said suit; and since the settlement I cannot say. In regard to the rest of the interrogatory I have no knowledge.

3d. I do not know.

CYRUS GOSS.

Taken by consent, and sworn to before
WILLIAM ABBOTT,
Justice of the Peace.

A.

John Towle's certificate.

Mr. H. MITCHELL.

SIR: Agreeably to your desire expressed in a letter to me by Mr. Shaw, I took Captain Dyer, and also Mr. John Thomas, of Brownville, and went to town. No. 3, in [range] 13, and after finding the

6220.

east line of the town. upon the south side of the Carriboo lake, we crossed the lake northerly, bearing a little west, for the purpose of going into a body of timber to ascertain its quality, through which timber we travelled about a mile, and found it to be the first rate of large bodied trees, from ten to twelve M per acre. Then half a mile through a lot of middling quality, and climbing on a ridge of hard wood, we saw one-half a mile distant the commencement of another berth, to which we could see no end. And southward we travelled half a mile to it, and then took a course N. W. about a mile and a half, through large and good timber the most of the way, until he came to a hard wood knoll, where we climbed again, and saw that the timber we were in covered all the west part of the town. Then going half a mile further west, across a bog brook, which we supposed run into the lake or small pond at the head of the lake, satisfied ourselves that the timber was large and good, by far exceeding that I had ever seen before; and as you wished me to compare it with the Cariboo No. 2 in 12, I think it better; and as to the Howe town., it must exceed that by far in value for timber. I should judge from what I have seen there could be no less than one hundred and fifty or two hundred million. In going on to or from No. 3, we crossed the Carriboo in different places, in order to compare it, as you wished me to do, and found the timber to be much better than the Carriboo. I could not think any less in quantity, and the best and most valuable timber town. I have ever seen, and am ready to show you or any one whom you will send, that the foregoing statements are correct.

Your most obedient servant,

JOHN TOWLE

Bangor, Saturday, April 11th, 1835.

B. Dyer's certificate.

Having explored township No. 3, 13th range, with Mr. Towle, I fully concur in what he has said of it.

BENJAMIN DYER.

John Thomas's certificate.

B.

I hereby certify, that I explored township No. 3, 13th range, with John Towle and Benjamin Dyer. I have been in the habit of exploring more or less for several years past, and I think with them, that it is worth as much or more than the Carriboo town., No. 2, 12th range, and is the best township I have ever explored.

JOHN THOMAS.

Bangor, April 14th, 1835.

And at the same term the complainants' file, as an exhibit in said cause, an office copy of a deed from Zenas Parsons to Aaron Putnam, dated March 25, 1799, acknowledged the same day and recorded in

Hancock registry, May 8, 1801, in book No. 8, page 248, and which is in words and figures as follows:

Exhibit.—Deed from Zenas Parsons to Aaron Putnam.

To all people to whom these presents shall come, greeting:

Know ye, that I, Zenas Parsons, of Springfield, in the county of Hampshire, and commonwealth of Massachusetts, yeoman, for and in consideration of the sum of six hundred dollars, current money, of the commonwealth aforesaid, to me in hand paid, before the ensealing hereof, by Aaron Putnam, of Charlestown, in the county of Middlesex, and commonwealth aforesaid, merchant, the receipt whereof I do hereby acknowledge, and am fully satisfied, contented, and paid; have given, granted, bargained, sold, aliened, released, conveyed, and confirmed; and by these presents do freely, clearly, and absolutely, give, grant, bargain, sell, alien, release, convey, and confirm, unto him, the said Aaron Putnam, his heirs and assigns forever, twelve hundred and twelve acres of land, lying in the district of Maine, on the east of Penobscot river, being part and parcel of, and lying in common and undivided with, a tract of nineteen hundred and twenty acres of land, being lot number one, in township number thirty-three, in middle division of lottery land, and drawn by me, the said Zenas, in a lottery of the commonwealth, on ticket one hundred and eighty-seven, as appears by the records in the secretary's office of the said commonwealth.

To have and to hold the before granted premises, with the appurtenances and privileges thereto belonging, to him, the said Aaron Putnam, his heirs and assigns, to his and their own proper use, benefit, and behoof forevermore; and I, the said Zenas Parsons, for myself, my heirs, executors, and administrators, do covenant, promise, and grant, unto and with the said Aaron Putnam, his heirs and assigns forever, that before and until the ensealing hereof, I am the true, sole, proper, and lawful owner and possessor of the before granted premises, with the appurtenances, and have in myself good right, full power, and lawful authority, to give, grant, bargain, sell, alien, release, convey and confirm, the same as aforesaid; and that free and clear, and freely and clearly, executed, acquitted and discharged, of and from all former and other gifts, grants, bargains, sales, leases, mortgages, wills, entails, jointures, dowries, thirds, executions, and incumbrances, whatsoever. And furthermore, I, the said Zenas Parsons, for myself, my heirs, executors, and administrators, do freely covenant, promise, and engage the before granted premises, with the appurtenances, unto him, the said Aaron Putnam, his heirs and assigns forever, to warrant, secure, and defend against the lawful claims or demands of any person or persons whatsoever.

In witness whereof I have hereunto set my hand and seal, this twenty-fifth day of March, in the year of our Lord one thousand seven hundred and ninety-nine.

ZENAS PARSONS. [L. S.]

And I, Isabel Parsons, wife of the said Zenas Parsons, in token of her relinquishment of her dower in the premises, have hereunto set her hand and seal.

ISABEL PARSONS. [L. S.]

Signed, sealed, and delivered in presence of—
WILLIAM ELY,
PAMELA PARSONS.

HAMPSHIRE, *ss:*

March 25, 1799, then personally appeared Zenas Parsons and Isabel Parsons, signers and sealers of the within instrument, and severally acknowledged the same to be their act and deed, before me.

WILLIAM ELY, *Jus. Pacis.*

Recorded and entered May 8th, 1801.

THOMAS COBB, *Register.*

HANCOCK, *ss:*

Registry of deeds, May 26, 1846. A true copy of record book No. 8, page 248.

Attest: F. B. MORGAN, *Register.*

Whereupon, at the same term, to wit, September term, A. D. eighteen hundred and forty-nine, the cause proceeded to a hearing; and, being fully heard and argued by Frederick Hobbs, solicitor for the complainants, and by James S. Rowe, solicitor for the defendant, was thence continued, for advisement, to April term then next ensuing, and thence again continued to the present term; when the following decree is passed, to wit:

Decree.

This cause came on to be heard at September term, in the year of our Lord eighteen hundred and forty-nine, upon the bill, answer, pleadings, and evidence, and was argued by counsel, and was thence continued, for advisement, to April term then next ensuing, and thence again continued to this term; and, thereupon, it was by the court considered, ordered, adjudged, and decreed, that the plaintiffs' bill be dismissed without costs to either party.

Attest: GEO. F. EMERY, *Clerk.*

And thereupon the plaintiffs claim an appeal therefrom, as follows, to wit:

Claim of appeal.

To the honorable the judges of the circuit court of the United States, held at Portland, within and for the Maine district, on the twenty-third day of September, A. D. eighteen hundred and fifty.

In the matter or bill in equity, wherein Cyril C. Tyler and Sarah

P. Tyler, wife of said Cyril C. Tyler, are complainants, and George N. Black is defendant.

The court having in this cause ordered and decreed upon a hearing of the cause that the complainants' bill be dismissed, the said complainants here in court claim an appeal from the same order and decree to the Supreme Court of the United States, and pray the court here that their said claim may be duly granted and allowed.

By FRED. HOBBS,
Solicitor for complainants.

Bond.

Know all men by these presents, that we, Cyril C. Tyler, of Hopkinton, in the State of New Hampshire, and Sarah P. Tyler, of said Hopkinton, wife of the said Cyril C. Tyler, as principals, and John Wilkins and William Fessenden, of Bangor, in the county of Penobscot, and State of Maine, as sureties, are holden and stand firmly bound and obliged unto George N. Black, of Ellsworth, in the county of Hancock, and State of Maine, in the full and just sum of five hundred dollars, to be paid unto the said George N. Black, his executors, administrators, or assigns; to the which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, dated the seventh day of October, in the year of our Lord eighteen hundred and fifty.

The condition of this obligation is such that, if the said Cyril C. Tyler and Sarah P. Tyler shall prosecute with effect an appeal made by them from a judgment given against them in the circuit court of the United [States,] for the first circuit, held at Portland, in and for the district of Maine, on the twenty-third day of September, in the year of our Lord eighteen hundred and fifty, in a suit in equity, wherein the said Cyril C. Tyler and wife are complainants, and the said George N. Black is respondent, to the Supreme Court of the United States next to be held at Washington, and shall pay all costs of appeal which they shall be by said Supreme Court adjudged to pay in said suit, then this obligation shall be void; otherwise in force.

CYRIL C. TYLER, [SEAL.]
SARAH P. TYLER, [SEAL.]
JOHN WILKINS, [SEAL.]
WILLIAM FESSENDEN. [SEAL.]

Executed in presence of—
ISABELLA P. TYLER,
Witness to C. C. T. and S. P. T.
E. S. HAMLIN,
Witness to J. W. and W. F.

Approved. ASHUR WARE, *Dist. judge.*

4222

Upon the filing of the foregoing prayer, together with the bond aforesaid, and the same being approved, the said appeal is allowed.

Recorded from the original papers and minutes.

Attest: GEO. F. EMERY, *Clerk*.

UNITED STATES OF AMERICA,
Maine district, ss:

I, George F. Emery, clerk of the circuit court of the United States, for the first circuit, for Maine district, do hereby certify the foregoing, contained on two hundred and four pages as numbered, to be a true copy as of record of the bill, answers, exhibits, proofs, and proceedings in the case of Cyril C. Tyler and wife, plaintiffs in equity, against George N. Black, defendant, determined in said circuit court, at September term, A. D. one thousand eight hundred and fifty.

In testimony whereof I have hereunto set my hand and affixed the seal of said circuit court, this tenth day of December, A. D. [L. S.] eighteen hundred and fifty.

GEO. F. EMERY, *Clerk*.